

# TRANSCRIPT OF PROCEEDINGS

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PUBLIC HEARING	)
	)
IN RE: Emergency Evacuation	)
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Pages: 1 through 101  
Place: Lexington, KY  
Date: February 4, 2003

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## HERITAGE REPORTING CORPORATION

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BEFORE THE  
DEPARTMENT OF LABOR  
MINE SAFETY AND HEALTH ADMINISTRATION

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PUBLIC HEARING )  
IN RE: Emergency Evacuation )

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Holiday Inn Lexington -  
North  
1950 Newton Pike  
Lexington, Kentucky

February 4, 2003

APPEARANCES

CARL LUNDGREN  
EDWARD SEXAUER  
MARVIN NICHOLS  
WILLIAM CROCCO  
JENNIFER HONOR

1                                    P R O C E E D I N G S

2                    MR. NICHOLS:    Good morning, my name is Marvin  
3 Nichols.    I am the Director of the Office of Standards,  
4 Regulations, and Variances for the Mine Safety and Health  
5 Administration.    I will be the moderator for today's public  
6 hearing.    On behalf of Dave Lauriski, the Assistant  
7 Secretary for Mine Safety and Health -- Assistant Secretary  
8 of Labor for Mine Safety and Health, I want to welcome all  
9 of you here today.    Also here today are several other  
10 individuals from MSHA:    Ed Sexauer, who is the Deputy  
11 Director in my office; Bill Crocco, who is the Chief of the  
12 Accident -- he's the Accident Investigations Program Manager  
13 for Coal Mine Safety and Health; Jennifer Honor is with our  
14 Solicitor's Office; and Carl Lundgren is an Economist in my  
15 office.

16                    This is the first of four public meetings on a  
17 Proposed Rule for Emergency Evacuations for underground coal  
18 miners.    The purpose of these hearings is to obtain comments  
19 from interested members of the public on the Proposed Rule  
20 for Emergency Evacuations.    We will use these comments to  
21 determine the best way to assure that underground coal  
22 miners will be protected during mine emergencies.

23                    The other hearings will be in Grand Junction,  
24 Colorado on February the 6th; Charleston, West Virginia on  
25 February the 11th; and Pittsburgh, Pennsylvania on February

1 the 13th. The initial announcement of these four rulemaking  
2 hearings was published in the Federal Register on December  
3 the 12th, 2002. Copies of this Federal Register document  
4 are available in this room on the sign-in table in the back.

5 The Proposed Rule that is the subject of the  
6 hearings is identical to the Emergency Temporary Standard  
7 published on December the 12th, 2002. The Proposed Rule  
8 would establish requirements for mine evacuations in  
9 response to mine fires, explosions and gas or water  
10 inundation emergencies.

11 I'd like to give you some background which led us  
12 here today. Under the Section 101(b) of the Federal Mine  
13 Safety and Health Act of 1977, the Secretary has authority  
14 to issue an emergency temporary standard if it is determined  
15 that miners are exposed to grave danger from exposure to  
16 substances or agents determined to be toxic or physically  
17 harmful, or to other hazards, and that such emergency  
18 standard is necessary to protect miners from such danger.  
19 On December the 12th, 2002, MSHA issued an emergency  
20 temporary standard in response to the grave dangers which  
21 miners are exposed to during mine fire, explosion and gas or  
22 water inundation emergencies. The recent deaths of 14  
23 miners at two underground coal mines punctuates the need for  
24 MSHA to address proper training and mine emergency  
25 evacuation procedures.

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1           The emergency temporary standard was effective  
2 immediately upon publication, and is effective until  
3 superseded. Under the Mine Act, the Secretary shall have  
4 nine months from date of publication of an emergency  
5 standard to promulgate a mandatory health or safety standard  
6 which will supersede the emergency temporary standard. By  
7 law, the emergency temporary standard also operates as a  
8 proposed rule. That proposed rule is the subject of this  
9 rulemaking. We are here today to receive comments on MSHA's  
10 proposed rule for emergency evacuations and to get your  
11 impressions on how the regulation has worked since it was  
12 issued December the 12th, 2002.

13           The major provisions of the proposed rule would  
14 require:

15           1. That operators of underground coal mines would  
16 designate, for each shift that miners are working  
17 underground, a responsible person in attendance at the mine  
18 to take charge during mine fire, explosion and gas or water  
19 inundation emergencies.

20           2. The designated responsible person must have  
21 current knowledge of various mine systems that protect the  
22 safety and health of miners.

23           3. The responsible person must initiate and  
24 conduct an immediate mine evacuation where there is a mine  
25 emergency which presents an imminent danger to miners due to

1 fire, explosion or gas or water inundation.

2 4. Only properly trained and equipped persons who  
3 are necessary to respond to a mine emergency may remain  
4 underground.

5 5. The existing requirements for a program of  
6 instruction for firefighting and evacuation would be  
7 expanded to address not only fire, but also explosions, and  
8 gas or water inundation emergencies.

9 6. Part 48 training requirements would be revised  
10 to reflect that the annual refresher training include the  
11 review of mine fire, explosion and gas or water inundation  
12 emergency evacuation and firefighting plans in effect at the  
13 mine.

14 So far, MSHA has received several comments on the  
15 Proposed Rule. One commenter recommended that we expand  
16 coverage of the rule to include metal and nonmetal mines.  
17 Another commenter supported portions of the rule but felt  
18 that some portions were ambiguous and allowed MSHA too much  
19 leeway to second-guess operator decisions on whether to  
20 evacuate. Finally, the commenter felt that the proposed  
21 rule fosters the idea that the first step in a mine  
22 emergency is always to evacuate the mine. The remaining two  
23 commenters offered a series of suggestions on how to improve  
24 the proposed rule. We have posted all comments on our web  
25 page at [www.MSHA.gov](http://www.MSHA.gov).

1           The issues surrounding the safety and health of  
2 miners are important to MSHA. We will use the information  
3 provided by you and all the commenters to help us decide how  
4 to best proceed through this rulemaking. These four  
5 hearings will give mine operators, miners and their  
6 representatives, and other interested parties an opportunity  
7 to present their views on this proposed rule.

8           The format of this public hearing will be as  
9 follows:

10           Formal rules of evidence will not apply, and this  
11 hearing will be conducted in an informal manner. And also,  
12 while MSHA has prepared some questions and answers on the  
13 rule since it was issued in December of 2002, we are not  
14 prepared at this hearing to answer every conceivable  
15 question on the rule. The purpose of this year is to  
16 identify all issues and concerns that you may have and your  
17 recommendations on how we deal with these issues when we  
18 issue the final ruling. All comments will be given  
19 consideration.

20           Those of you who have signed up to speak today  
21 will make your presentations first. After all scheduled  
22 speakers have finished, others can request to speak. When  
23 the last speaker is finished, we will conclude this public  
24 meeting.

25           If you wish to present any written statements or

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1 information today, please identify your material clearly.  
2 When you give it to me, I will identify the material by the  
3 title as submitted. You may also submit comments following  
4 the meeting. Please submit all comments to MSHA by February  
5 the 28th, 2003, which is the close of the post-hearing  
6 comment period. Comments may be submitted to MSHA by  
7 electronic mail at [comments@msha.gov](mailto:comments@msha.gov), by fax at 202-693-  
8 9441, or by regular mail or hand delivery to MSHA, Office of  
9 Standards, Regulations and Variances, 1100 Wilson Boulevard,  
10 Room 2352, Arlington, Virginia.

11 A verbatim transcript of this public meeting will  
12 be available. If you want a personal copy of the meeting  
13 transcript, please make arrangements with the Court Reporter  
14 or you may view it on MSHA's web site. It will be posted on  
15 the web site shortly after this public meeting.

16 The procedures -- excuse me, we will begin with  
17 the persons who have signed up on the sheet in the back.  
18 And our first presenter will be Robert Wise with the UMWA.

19 As you come up to speak, please begin by clearly  
20 stating your name and the organization so the record will be  
21 sure and get the name and organization correct.

22 MR. WISE: Robert Wise. I'm with Local 2397.  
23 I've got here in front of me a picture of 13 miners that  
24 have lost their lives. And this one here happened to be my  
25 best friend.

1           Firefighting and evacuation plans and improvements  
2 and emergency temporary standards and the plans being  
3 submitted by mine operators in response to the ETS both fail  
4 to address the deficiencies identified by Jim Walter,  
5 Resources Number 5.

6           Communication system. Emergency temporary  
7 standards is needed that requires the tracking of the  
8 location of underground employees, including those working  
9 out back. A communication system which demonstrates the  
10 ability of miner evacuation to be rapid, effective and safe,  
11 without relying on miners being dispatched so to notify  
12 others. And set no standard requirements for communications  
13 between the responding and command center, a responsible  
14 person.

15           Mine wide atmospheric monitoring system.  
16 Emergency temporary standards is needed that requires  
17 improved and expanding the atmospheric monitoring system  
18 used in underground coal mines to provide increased safety  
19 on a daily basis and to improve the information available at  
20 the scene of a mine emergency.

21           Protection of a section electrical equipment. A  
22 temporary emergency standard is needed that requires  
23 protection against roof falls, explosive gases.

24           Improvement in battery design. Emergency  
25 temporary standards is needed that requires improvements in

1 battery design.

2           Quantity, quality and distribution of multi-gas  
3 detectors. Through emergency temporary standard -- or  
4 through approval of firefighting and evacuation plan, MSHA  
5 should require operators to demonstrate the system in place  
6 that covers the daily distribution and maintenance of  
7 detectors to cover availability on all shifts for emergency  
8 response.

9           MSHA should prohibit any person being utilized for  
10 emergency response that is not individually equipped with a  
11 multi-gas detector.

12           Gentleman, I'd like to just make a comment about  
13 the battery system here. I feel like that we all know that  
14 we could have better batteries. We don't have what is  
15 needed there. And these 13 men didn't die from just a mine  
16 accident. First, look at your records; look at the records  
17 that are available. And most of what I said right here was  
18 not in place or touched on any of that with these guys.  
19 These people died unnecessarily.

20           And please, for God's sake, do something about it.  
21 Then after you do something about it, make sure it's  
22 carried out to the fullest. There's no telling how many  
23 times that I've heard this one statement. We are going to  
24 blow the top off of one of these mines. It's not over if  
25 things don't change, I promise you.

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1           You've got two more there and you can do it again  
2 at Number 5. If things is not changed, laws -- and then  
3 enforce.

4           This right here is proof of writing up a return  
5 with coal dust in it. And the persons affected was warned.  
6 I guarantee you, this is 13. I'm not a mathematician by no  
7 means, but I do know that. And when you hear people asking  
8 why my dad had to lay down there all that length of time,  
9 not being able to see. And those lives, not only will they  
10 never be the same, which is expected, there's some of them  
11 that's so -- is close to destruction.

12           Please, please, do something.

13           MR. NICHOLS: Thank you, Robert. Is there  
14 anything you want to leave with us? Do you want to leave  
15 your notes?

16           MR. WISE: Pardon me?

17           MR. NICHOLS: Do you want to leave your notes or  
18 anything with us?

19           MR. WISE: Well, do you need them? I don't mind  
20 you having them --

21           MR. NICHOLS: I think we've probably got anything  
22 but if you don't need them, we'll keep them. Thank you.

23           Okay, our next presenter will be James Blankenship  
24 with the UMWA.

25           MR. BLANKENSHIP: Good morning.

1 MR. NICHOLS: Good morning.

2 MR. BLANKENSHIP: My name is James A. Blankenship,  
3 United Mine Workers Local 2245, District 20, employed at Jim  
4 Walter Resources Number 4 mine, Rookwood, Alabama.

5 I'd like to talk to you today about the standards,  
6 as issued. They fall way short of what needs to protect the  
7 miners underground. One thing I'd like to talk to you about  
8 is responsible person, which was, according to the  
9 standards, they're allowed to be underground where he could  
10 actually become part of the emergency. He could be the  
11 emergency.

12 The standards need to require that he's on the  
13 surface where he has monitoring systems of the mines,  
14 communications with the mines, and also communications with  
15 the outside, fire department, whatever might be needed.

16 By allowing him to be underground, you're putting  
17 every miner down there in danger. Because what is he is the  
18 guy that's injured or hurt and can't take control of the  
19 situation?

20 So I'm going to ask you to please protect the  
21 miners and require management to have the responsible person  
22 on the surface where he can make sure that whatever is  
23 needed is done.

24 The part about the planning has fallen way short.  
25 We need more than just classroom training. We need full

1 evacuation, not just on the full production shifts, but also  
2 on out of shifts when miners are scattered all over the mine  
3 site. From belt lines to the turns, to the sections for  
4 long walls. We have contractors and vendors in the mines  
5 that needed to be trained on our evacuation plan. They also  
6 need to have someone with them that's familiar with the  
7 mines, familiar with the communications system, the track  
8 system, the man-buses, whatever, so that those people can  
9 get out of that mine also if there's a problem.

10           At Jim Walters 4 we vulcanize our belts, our main  
11 line belts, practically every weekend. Those vulcanizers  
12 are taken to areas and equipment set up and they're left by  
13 themselves, you know, to do their job for ten, 12 hours at a  
14 time. If something happens, those gentlemen would be just a  
15 loss. It's such a shame to say it, but they're not looked  
16 after. There needs to be somebody with them to help them  
17 get out of that mine if something happens. They're not  
18 familiar with the mines. They had good training but they  
19 still might not be able to make it out.

20           The electrical system needs to be addressed on the  
21 mine site. The electricians need to make sure that we know  
22 where everything is at as far as the pumps, vacuum breakers,  
23 pod centers. We've got a lot of water in that mine, so  
24 we've got pumps all over the place. We need to make sure  
25 that wherever we can -- that everybody knows where you can

1 de-energize everything from. It needs to be part of the  
2 standards.

3           Transportation. At our place we hot-seat change  
4 out, which means we change out at the face, one crew will  
5 come in, another will come out. At the end of the shift,  
6 somewhere around basically 2:15, 2:20, 2:25, someone on that  
7 section of the long wall would bring the bus to the bottom  
8 so the evening shift could come in. About a 30, 40 ride.  
9 By the time the evening shift gets in, loads up and gets  
10 back to the section, another 30, 40 minutes. You've left 50  
11 to 60 people on those faces without a way to get out of that  
12 coal mine. These regulations should require management to  
13 keep transportation on the end of those tracks for those men  
14 and women at all times, so they can get out. As we know, at  
15 Number 5 mines, an hour and a half to two hours is way too  
16 long. You'll have a second disaster and we don't need that.

17           Our hoist at our mines take 65 people down. The  
18 little emergency hoist brings eight out. It needs to be  
19 addressed that management can't send people in the mines to  
20 run coal on a eight man hoist with the big hoist down. We  
21 have a hundred and some people underground. It takes them  
22 several hours to get out. Plus you have 50 or 60 that  
23 worked over, that adds to that. Those 50 or 60 that worked  
24 over, two hours to get to the bottom, and then another two  
25 hours getting out of the mines. You've wrote them off, give

1   them up, put them in the ground and buried them is what  
2   you've done.

3               The standards call for at least two miners each  
4   working a section to be proficient in the use of all fire  
5   suppressant equipment and one foreman and at least one miner  
6   for every five working miners on a maintenance shift.  
7   Again, one of those miners are the ones that ought to do  
8   emergency and nobody else is proficient on the firefighting  
9   equipment. Every single person in that coal mine should be  
10  proficient on the firefighting equipment and where it's at  
11  and how to use it.

12              They ought to have hands-on drills from evacuation  
13  of the entire coal mines, not just classroom. You sit in a  
14  classroom and talk all day long. And as you know as well as  
15  I do, until you actually go out there and do it, you don't  
16  comprehend exactly what it takes. You can tell an  
17  individual, well, you get the man-bus, you go get this guy  
18  and you go get that guy, until you actually do it, you don't  
19  know what you're going to run into.

20              So we need hands-on training to get them in and  
21  out of the mines. Not just once a year, not just once every  
22  now and then, but a regular set basis to do it. I'm not  
23  talking about part of the crew. Every single person in that  
24  coal mine needs to be trained on this.

25              I've got a few more years to work in the mines.

1 Hopefully I can retire. I've got a lot of friends. Some of  
2 those gentlemen that lost their lives in Number 5 mines  
3 worked at Number 4 for a while, they were friends of mine.  
4 I don't want to see anybody get hurt again. That's why I  
5 talked about contractors and vendors. I personally don't  
6 like contractors and vendors underground because they're  
7 taking our jobs. But I don't want to see them hurt. I want  
8 to see them come out of that coal mines alive and go back to  
9 their families. I want to see everybody that goes in,  
10 whether management or company, come out of that mines alive.

11 It's in your all's hands to do that. And I ask  
12 you and I urge you, please make these standards tough enough  
13 that everybody comes out of that mines alive and enforce  
14 them. That's a big laugh in District 20, District 11, is  
15 enforcement.

16 I appreciate your time and I thank you.

17 MR. NICHOLS: And thank you, James. Does anybody  
18 have any questions of James? Okay, thank you.

19 The next presenter will be Bobby Jones, UMWA.

20 MR. JONES: How are you all doing today? I'm  
21 Bobby Jones, UMWA, Local 2245. I believe we have a need for  
22 atmospheric monitoring throughout the whole mine and not  
23 just on the belt line, so we can tell where everything is  
24 out in the mines, fire or flood or whatever and they can  
25 evacuate, instead of just on the belt line. The operator

1 outside knows exactly where to send people to and how far to  
2 send them.

3 I've been in the mines for 23 years and I'm not  
4 even qualified to go down and handle one of the emergencies  
5 by the standards. And I believe we need more drills with  
6 only two responding people going in to get the people. The  
7 evacuation system and also responsible person outside to do  
8 his job. They need more experience on that.

9 On the electrical side, we need to know where  
10 every -- more than just a couple people need to know where  
11 everything is at in the mines. Whether it's something  
12 exploded or gas on the section or whatever, we just need a  
13 few more people to know about all that.

14 The current requirements for a drill, I don't  
15 believe that they're sufficient enough. Doing a 90 day,  
16 just once every 90 days, will get it in everybody's head  
17 because people change. I'm an electrician and I float  
18 throughout the mines. One section is not the same as  
19 another and everybody needs to be trained on more than just  
20 one section because we float around.

21 As far as knowing the expected movement of people  
22 underground, expected movement don't always happen. Things  
23 could happen that the person is not going to be exactly  
24 where he needs to be. You need to know exactly where  
25 everyone is at at all times in the mines. People in

1 returns, you know, they may get stuck half way through and  
2 they don't have any way to know.

3           You know, I just, you know, would like to know  
4 where everybody's exact location is throughout the mines  
5 instead of just guessing. Because I don't believe the  
6 guessing gets it done. Thank you all.

7           MR. NICHOLS: Thank you, Bobby. The next  
8 presenter will be Dwight Cagle, UMWA.

9           MR. CAGLE: Dwight Cagle, Local 2397. I'd like to  
10 touch on the designated responsible person. In our mine  
11 it's the seal operator.

12           At our mine the seal person, among his other  
13 duties than being designated responsible person, taking care  
14 of the cafeteria for the overtime meetings, taking care of  
15 outside supply, oxygen acetylene for underground, work 12-  
16 hour shifts seven days a week.

17           As far as having knowledge of the mines, the only  
18 knowledge he has of the mines is what people tells him.  
19 Three out of four people have medical reasons they can't go  
20 underground. How can he be familiar with the mines is all.

21           Should the requirement that the designated  
22 responsible person be located on the surface, it should be a  
23 requirement to travel underground, it could be on his off-  
24 shift, so that he can familiarize himself with underground  
25 workings, firefighting equipment and transportation, also

1 communications. The new reg should require that  
2 communications be maintained.

3           At our mines, if the phone goes down, well,  
4 they'll get whatever electrician is available on the  
5 section, what about going and checking the phone? While  
6 they continue to produce coal.

7           If they would shut the coal run down when the  
8 phone -- when communication goes out, well, then the phone  
9 would be repaired a lot quicker.

10           As far as transportation, also like Mr.  
11 Blankenship said, we hot seat at our mines. At the end of  
12 every shift, beginning of that shift, there's no  
13 transportation on the section. The law only requires  
14 communication or transportation. The new reg should require  
15 that transportation should be there for evacuation at all  
16 times. Whether it's one man, two men or whatever on these  
17 sections, or even if they've got a group outside working,  
18 they should have transportation and communications.

19           And also the new reg should require that if the  
20 shuttle hoist goes down, our auxiliary hoist is the same as  
21 Number 4 mines, be used to bring people out, not send people  
22 in to produce coal while the main hoist is down.

23           It takes at least ten minutes for a round trip and  
24 that don't include the loading and unloading and checking  
25 people off.

1           As far as knowing where -- the responsible person  
2 knowing where everybody is underground, they've got a  
3 clipboard that will tell them outside where they're going to  
4 go but before they get there, they'll be changed. It's  
5 according to what conditions are underground at this time.  
6 We need to put a stop to that. They need to report in if  
7 there are any changes when they get to the bottom and the  
8 underground responsible person, he can be communicated with.

9           So two hours and 40 minute shift, the underground  
10 responsible person more than likely can't be reached. We  
11 need some regulations on that.

12           That's all I've got, thank you.

13           MR. NICHOLS: Okay, thank you, Dwight.

14           MR. SEXAUER: Dwight, several speakers have  
15 addressed the responsible person. We've had some comments  
16 that say the responsible person should be designated by job  
17 title as opposed to individuals. Do you have any thoughts  
18 on that subject? Would that tend to help or hurt or would  
19 it make a difference at all?

20           MR. CAGLE: Are you talking about the underground  
21 or the surface?

22           MR. SEXAUER: Either way.

23           MR. CAGLE: Well, the underground person, if he's  
24 going to be the responsible underground person, I think that  
25 it should be a person that that's all his job should be.

1 Not haulage, fire pump, walking the belts, whatever. His  
2 job should be the responsible person underground. He should  
3 know where everybody is underground. He should know if they  
4 have communications or if they have transportation. Yes,  
5 we've got two means of communication underground. But if  
6 the cable is not run into these areas, you know, like an  
7 antenna, this will not work. It's a walkie-talkie type. A  
8 wireless. But you've got to have the antenna run up in  
9 these areas, these isolated areas. We need the underground  
10 phones. The responsible person, the underground responsible  
11 person, that should be his job. Regardless if he be the  
12 mine foreman or just a foreman or whatever.

13           The outside responsible person, they should  
14 isolate these outside calls. He's also the operator that --  
15 when you call after hours, even an out shift, well, he has  
16 to take all these calls. Somebody works over, they want an  
17 overtime meal, well, he's got to get the keys to unlock the  
18 -- to give them their meal.

19           At our mines, the oxygen acetylene, okay, he's in  
20 charge of that, too. He's got to call the CO man to get  
21 oxygen acetylene. Then he has to call the outside supply  
22 people to take care of it. He's got too many jobs. If he's  
23 going to be the responsible person, well that needs to be  
24 his job. Plus monitoring the atmosphere in the mines. That  
25 needs to be his job, his job only. Did I answer the

1 question?

2 MR. SEXAUER: Yes, you did.

3 MR. NICHOLS: Thanks, Dwight. Any of you guys  
4 that want to leave any of your notes with us, we'd be glad  
5 to take them. If you do, write your name at the top and  
6 what local you represent, we'll be glad to take anything you  
7 give us.

8 The next presenter will be Frank Stewart, UMWA.

9 MR. STEWART: Good morning, Gentlemen, Ladies. I  
10 appreciate the opportunity to be here this morning. My name  
11 is Frank Stewart, UMWA, Local 2397, District 20.

12 My number one gripe, once again, is the CO person  
13 being the responsible person. At the mines I work at,  
14 everybody in this position is a company employee who has  
15 been injured underground and is no longer able to work and  
16 perform the duties underground. They are required to work  
17 12-hour shifts. If somebody is going to be responsible for  
18 all of the union personnel and company personnel underground  
19 at the coal mines, once that man sits in a room by himself  
20 looking at TV monitors, looking at CO monitors, answering  
21 the telephone, answering the radio, 12-hours is entirely too  
22 long for him to be as alert as he needs to be if a disaster  
23 hits that mines.

24 I can't tell a company how to run the mines. It's  
25 their mines. But I don't believe that a disabled person

1 that's hurting sitting in a chair for 12-hours can perform  
2 his job the way it needs to be done during an emergency.

3           They are not familiar with the mines. We don't  
4 have one person underground -- at the CO office at our mines  
5 that has worked underground in probably at least ten years.

6           Our mines has progressed in all directions in ten  
7 years. If somebody needs to come out an escape-way, that  
8 man has no unearthly idea. He can look at a map but he has  
9 no idea what's in that escape-way or in the return or if  
10 there's a rock crawl, whatever is in there. He does not  
11 know.

12           The second question, everybody has already hit on  
13 it, but it concerns me, is the responsible person does not  
14 know where the people are underground. If I'm on the track  
15 and I don't have a radio on my ride, he can't contact me. I  
16 may be driving straight into something and not have a gas  
17 instrument, that may kill me instantly. But because there's  
18 no communication on that track unless I have a radio, I'm a  
19 dead man.

20           Or if I get to a telephone and the light's  
21 blinking on it or if the light isn't blinking on it and I  
22 pick it up and the telephone doesn't work, you have to go  
23 somewhere and call someone, get a hold of somebody. Call  
24 the CO man, tell them the telephone at the mouth of the long  
25 wall doesn't work. Do you know how long it takes them to

1 get that phone working? It may not get working that day.  
2 It may get working the next shift. But according to our  
3 plan, they have to have two means of communication. That  
4 phone at the mouth of that long wall has to be working. If  
5 not, everybody in by that phone can be killed. But yet it's  
6 the next shift or whenever we get somebody up there to work  
7 on it.

8 Telephone on a section goes down. The electrician  
9 is working on a miner, you know, whatever. What's the  
10 section boss say? Hey, Joe, how about going out there and  
11 see if you can find out what's wrong with that telephone.  
12 He has no idea what he's even looking for, but yet he's sent  
13 out there, no means of communication with the outside, and  
14 we've got 13 people working in the face. This has to be  
15 addressed. We have to maintain communication of some sort.

16 I'd like to hit on the main hoist that Mr. Cagle  
17 hit on and Mr. Blankenship also. We have a problem when the  
18 main hoist is used to put in supplies and send people  
19 underground, about 50 at a time, when it goes down, we have  
20 a problem with management thinking that running coal is more  
21 important than human lives. So they send people underground  
22 on an auxiliary hoist. Like they stated, you may have 130  
23 to 150 people underground. It may take you two and a half  
24 to three hours to pull those people out with that main hoist  
25 down. That's entirely too long.

1           That is not immediate evacuation. That's not  
2 immediate, rapid evacuation. That's, we'll get them out  
3 when we get around to it. We've got to do something about  
4 that. That's up to you all. We are asking you to do it,  
5 take care of it.

6           Transportation at the end of the tracks on the  
7 section has been touched on already. I'd like to touch on  
8 it again. The safety of the people working producing that  
9 coal is totally ignored when that man-bus leaves the end of  
10 the track. The man-bus leaves, the telephone line goes  
11 down, a rock falls, whatever. Okay, you've got 13 people  
12 down there, they can't get out and you can't call them.

13           Something happens, CO's coming in, before the CO  
14 alarm even goes off, they could already be dead. The CO man  
15 might have known what went off, but he can't notify them.  
16 The CO has already got them. Why? Telephone doesn't work  
17 and the man-bus isn't there. They couldn't get out if they  
18 did know about it.

19           There are mines that I've been told where every  
20 person that goes underground has a battery, their light,  
21 where people on the surface can contact them during an  
22 emergency. I would like to see everybody that goes  
23 underground at Jim Walter, if they can't get a hold of them  
24 on a phone, at least they can be notified individually  
25 wherever they are that there is an emergency. We go through

1 safety training. We are all instructed during an emergency  
2 what we're supposed to do to get out of that mine, the  
3 safest way to get to fresh air. But, if nobody can contact  
4 us, we're not going to make it.

5 That's all I've got. I appreciate your time.

6 MR. NICHOLS: Okay, thanks, Frank. Anybody have  
7 any questions of Frank? Thank you.

8 The next presenter will be Keith Plylar, UMWA.

9 MR. PLYLAR: Good morning. My name is Keith  
10 Plylar. My last name is spelled P-L-Y-L-A-R. I work at JWR  
11 Number 7 mine in Rookwood, Alabama. I'm also a member of  
12 the UMWA, Local 2397, Health & Safety Committee.

13 I worked in the mines for approximately 23 years.  
14 I appreciate the opportunity to be here today. I think  
15 we've met on numerous other occasions, Mr. Nichols, at  
16 hearings like this. I am glad to have the opportunity to  
17 address the new regulations that's being proposed.

18 Even though I think that the new Proposed  
19 Evacuation, Firefighting regulations, is an improvement,  
20 they fall way, way short of what we need to protect the  
21 miners.

22 The first thing I guess I want to address, when I  
23 say that they fall way short, there's a lot of things if you  
24 look at the various reports that came out in the disaster  
25 that happened at JWR Number 5 mine back in September of

1 2001. They're not addressed or not corrected in the new  
2 regulations. They could have, hopefully, maybe prevented a  
3 lot of the miners from having to die. And today, I think,  
4 in time we're going to come out with new regulations to  
5 address all these issues to try to prevent this from  
6 happening in the future.

7           The first thing I'm talking about is the new  
8 75.1501 that addresses that there shall be a responsible  
9 person available at the mine site when miners are  
10 underground. First off, this language in this regulation  
11 does not address what that responsible person can or has to  
12 be. The interpretation I have under the regulation is that  
13 he could be underground, on the surface at any given time.

14           As I think someone alluded to before me, if the  
15 responsible person is required to be underground, he very  
16 easily could be caught up in any emergency that happened  
17 underground or explosion and not be able to respond and to  
18 fulfill his duties required under the regulations to rapidly  
19 evacuate the miners.

20           But not only that, we also believe that this  
21 regulation is in direct conflict of I think 75.1601, which  
22 is already part of the CFR and which that regulation states  
23 that the responsible person will be on the surface. If you  
24 read that. So I don't want to see one regulation coming in  
25 place that is in conflict with another regulation that we

1 already have. You can look that up and see if my quote is  
2 right on that.

3           Also, the new rule does not address in detail what  
4 type of training this responsible person is required to  
5 have, who is responsible for giving this person -- or  
6 responsible person the training. And I think the regulation  
7 should clearly outline what type of training, when, how  
8 often and who is responsible for giving this individual the  
9 training so that he could be -- rapidly evacuate and have  
10 people to respond to emergencies.

11           Another thing is that the new rule requires for  
12 the responsible person to have a current knowledge of  
13 assigned location of expected, underline expected, movements  
14 of all miners underground. This is totally unacceptable  
15 language to the miners. Because you could have people  
16 continuous moving throughout that mine so that this  
17 responsible person wouldn't have any idea where he's at.  
18 And why you put such -- or propose such vague language when  
19 it's very easy to correct this. If you're going to have a  
20 responsible person, he should at all times know where every  
21 miner is underground. And that's easily achieved if you  
22 maintain communications. The person underground, all they  
23 have to do is be responsible to call and get in touch with  
24 that responsible person to let them know where they're  
25 going. And that way if you did have to evacuate the mines

1 or have people to respond, then the responsible person would  
2 know exactly where everyone is at.

3           Also it talks about the responsible person having  
4 knowledge of the mines and escape-ways underground. Even  
5 though we recommend and suggest that the responsible person  
6 should be located on the surface, he needs to be able to go  
7 underground, to travel underground, to travel the escape-  
8 ways, to inspect the equipment that's made available so that  
9 he will know the miners. And some of my brothers spoke up  
10 earlier. I don't know whether it's like this at other  
11 mines, but we do have people that the company has designated  
12 responsible persons that has not been underground in several  
13 years. Several years. By doctor's orders they're not able  
14 to go underground due to health problems.

15           I'm not saying that these are not good people but  
16 it's hard to train someone that doesn't go in. Furthermore,  
17 it could be at any other mines that they could go out and  
18 hire someone off the street, bring them to the classroom,  
19 train them, that's never been underground the way the new  
20 regulation reads, and he could become the responsible  
21 person. So don't just take into consider Jim Walter Number  
22 7 mines, this could happen at any other mine.

23           They could go out here and hire anybody from off  
24 the street, bring them in, give them classroom training,  
25 make them knowledgeable and familiar with the mines and they

1 could become the responsible person the way the regulation  
2 reads at this time.

3           Please, Gentlemen, I think all of us has been  
4 around long enough to know this is not acceptable language.  
5 And it does not protect the miners or give them any level  
6 of protection against an evacuation or the disaster that  
7 happened.

8           If I'm not mistaken, I think also the new rule  
9 indicates that training on the new evacuation procedures  
10 under Part 48 does not have to be conducted by an MSHA  
11 approved instructor. This is in conflict with 48.4 which  
12 says training, other than hazard or task training, must be  
13 conducted by MSHA approved instructors.

14           By all means, if the regulations is good enough to  
15 give our people retraining and hands-on training by an MSHA  
16 approved instructor, why not also make it mandatory and  
17 necessary for whoever is going to give this training to be  
18 an MSHA approved instructor?

19           I hope this is just an oversight, but I think it  
20 came out in the question and answer page that you all  
21 presented out where it states that it doesn't have to be an  
22 MSHA approved instructor. I don't understand where the  
23 thinking come from on this. There again, I think it's in  
24 conflict with Part 48.4 of the regulations.

25           Also the new standard does not address emergencies

1 during out of shifts, what type of training, what type of  
2 drills that will be given. And when I say out of shifts I'm  
3 talking where you might have just the people down there on  
4 one part of the mines doing rehabilitation. I think that  
5 people that's working other than just production should be  
6 also trained thoroughly in firefighting and evacuation  
7 drills. These people are probably as -- if not more  
8 important, than the people that go to your normal sections  
9 and long walls every day because they travel to all  
10 different areas of the mine. There should be more emphasis  
11 put on them to make sure that they understand how to  
12 evacuate from underground. And also to learn how to fight a  
13 fire.

14           Again, the new regulation doesn't clearly state  
15 what it means when it says that people will be properly  
16 trained and the equipped persons can respond to any  
17 emergency situation. We'd like to see that defined in the  
18 new regulations to clearly understand what equipped means.  
19 It should spell out what kind of material they have to have  
20 with them, what kind of monitoring devices they have to  
21 have.

22           And also it doesn't spell out how many people can  
23 be used to respond to an emergency. When you start saying  
24 that you can have a certain number or an amount of people  
25 trained to respond to emergencies, we could end up having

1 half the mines. Some one responsible person saying I've got  
2 50 people here that's been trained and could respond to this  
3 emergency situation.

4 I think that we're setting ourself up for another  
5 disaster if we're going to put a limited number of people  
6 responding. Because the more people that we've got exposed  
7 to a dangerous situation, the more likelihood increases that  
8 you're going to get somebody seriously injured. So there  
9 should be a limited number on people that can respond. It  
10 should be spelled out in detail. What type of training they  
11 will have. What type of equipment they will use. I guess a  
12 requirement stating if they don't have a monitor for each  
13 person going to respond, then that they can't respond.

14 There definitely needs to be more thought put in  
15 this and more things addressed.

16 The rule also does not address any requirement for  
17 emergency transportation underground. We can set here and  
18 come up with all type of new regulations about evacuating  
19 miners, responding, but when you get down there and you  
20 ain't got any way to travel and you're two or three miles  
21 out from the bottom, what good is it going to have to have a  
22 plan in place if you have no way for the people to evacuate.

23 As someone spoke before, there's numerous times that we  
24 have several people working underground that has no  
25 transportation off the sections or long walls. They're

1 there anywhere from 30 minutes to an hour and a half waiting  
2 on a man-trip to come back so they'll have a way to  
3 evacuate.

4 Also it doesn't address having some means made  
5 available underground at all times just to respond. Not  
6 only they would need to have transportation for people  
7 working at all times, we should have a designated  
8 transportation underground for people to have to respond to  
9 the emergency if they have to.

10 In other words, if they come down to go respond to  
11 it or if they leave the bottom, they should have something  
12 designated for them to ride on to respond to it.

13 Once again, I'll remind you that this is all about  
14 rapid response. Rapid response, that's totally different of  
15 whether one miner, ten miners or any number of miners could  
16 die.

17 The new rule also, my interpretation of it, calls  
18 for mine emergency evacuation drills instead of fire drills.

19 While increased drills are needed for evacuation  
20 emergencies, fire drills should be required in the  
21 regulation, not only in plan language. The fire drill  
22 should be conducted during fully staffed and partial shifts.  
23 Not only just during productions.

24 Also in the new evacuation drills it doesn't talk  
25 about or outline or go into detail exactly what the drill

1 would consist of. You know, we think that the new  
2 regulation should spell out what the responsible person's  
3 part is in the drill, who initiates the drill, what areas of  
4 the mine he will travel and should be required to travel the  
5 total extent of the escape way back to the bottom.

6           Without detailed, spelled out language in the new  
7 regulations, you're going to get several plans throughout  
8 the nation that's going to have all different type of  
9 language in them how to respond. I think this is the time  
10 to clear up a lot of this plan language. You spell it out  
11 in the regulations and you won't have to have the operators  
12 submitting all these different types of plans. And which in  
13 return would make it easier on the operators.

14           And also protect the miners, because they know  
15 what the regulation is. If they go from one mines to the  
16 other mines, they don't have to worry about what plan  
17 language they're to work under, the regulation states it.

18           Another thing that the new regulation doesn't  
19 require that we think is time or past time, should be in  
20 place, and that's an AMS system throughout the mines.  
21 Automatic atmosphere monitoring system. The technology is  
22 there. It's not that costly. It wouldn't be that much of a  
23 burden on the operator, we feel like, to instill an AMS  
24 system without this mines.

25           Right now I guess most of the mines, I know down

1 in our way, they have the AMS system on their belt lines.  
2 The system has proven over the years to be pretty reliable.  
3 But, if we don't have -- if we just have it in our belt  
4 entry, the likelihood of an explosion going down and  
5 knocking it out, you've lost all communications outside for  
6 what the atmosphere is. So if you installed it throughout  
7 the mines, in intakes and everywhere else, it would give a  
8 constant reading to the miner, and especially the ones  
9 responding to an emergency. They would know what they was  
10 going into before they got there.

11 Again, let me emphasize that I think the  
12 technology is very easily obtained and it's there and I do  
13 not think it would be very costly to the operator. And I  
14 say that because I know any time that the MSHA proposes or  
15 the government proposes regulations, they have to --  
16 required to look at the cost to the operator. There again,  
17 I think all these regulations that we're talking about  
18 changes to them would not effect the cost per ton to the  
19 operator at the mine site.

20 The other -- one of the other areas I'd like to  
21 talk about now is the communications system. The new  
22 regulations doesn't go into detail enough about  
23 communications systems. It says that you will maintain  
24 communications. I've had several people before me talking  
25 about communications systems not being maintained. That's

1 the reason I think the regulations should spell out that  
2 you'll have two means of communication underground at all  
3 times. Once again, I talk about the cost as inefficient and  
4 it wouldn't be a burden on the operator. The technology is  
5 out there to have this communication system. Right now we  
6 have a regular underground phone system, it kind of works  
7 like the Bell Telephone System. We also have a retriever  
8 system, a radio system. It does work at times pretty good  
9 if you're in the intake entries. Because that's the only  
10 place that has a line running. It could be very easily  
11 installed to where this feeder system would work in all  
12 entries underground. It would just take a little bit of  
13 time and very little cost to the operator to install this  
14 antenna line throughout the entries of the underground  
15 mines.

16 We think it's essential that we have both types of  
17 communication. Because the way the regulation's reading  
18 now, throughout -- say our fall areas, if you've got  
19 communications failure, that communication failure can be  
20 down unlimited -- an unlimited amount of hours before it's  
21 restored. As long as you have someone working on it.

22 And I speak of that from knowledge because we  
23 fought these battles throughout with MSHA before. And we  
24 need some type of regulation to say if you lose  
25 communication, the production stops.

1           And I say that for two reasons. If you stop  
2 production, you decrease the likelihood of something major  
3 happening. Yes, true you can have a major explosion without  
4 production, but at least you're not producing and liberating  
5 as much methane during nonproduction as you would be in  
6 production.

7           Secondly, if an operator knows they're required to  
8 maintain a communications system or they can't produce coal,  
9 I can guarantee you emphasis will be put to maintain the  
10 system, there's no doubt. And all men necessary and  
11 possible will be put on this.

12           Secondly, come back -- if you have two types, two  
13 means of communication underground at all times, the  
14 likelihood of both of them going out at one time is very  
15 unique. It wouldn't happen very often that you'd have both  
16 systems going out.

17           So a lot of these could be addressed in having two  
18 types of communications system.

19           Talking about the instructors again, I think the  
20 regulation -- like I said, I want to emphasize that one more  
21 time, it needs to spell out who the instructors are, what  
22 type of training the instructors have had to be able to  
23 train the responsible person and other miners working  
24 underground in the evacuation procedures.

25           I think there's a part in there in the new

1 regulations that says a record has to be maintained of the  
2 people trained in evacuation drills, when they happen, and  
3 firefighting drills. The regulation states that they should  
4 be made available to a secretary -- a representative of the  
5 Secretary of Labor. I think this is conflict with the Mine  
6 Act, which the language should state they should be made  
7 also available to a representative of the miners.

8           If you'll look in most of your other regulations  
9 and throughout the Mine Act, I think the intention of it was  
10 also so the miners would be able to maintain and make sure  
11 that the operator -- I hope that was an oversight, just a  
12 failure of putting that in there. But I think that the  
13 miners' representative and all miners should also be made  
14 available a copy of any records upon request by them.

15           That's about all I've got. I will hopefully be  
16 submitting at a later time, before the deadline, submitting  
17 comments outlining exactly what I've talked to here about  
18 today. And maybe going into more detail.

19           But in closing let me say that I do, again,  
20 appreciate the opportunity to be here. I do think this is a  
21 serious matter. I hope and pray that you all take all of  
22 our comments that you hear today into serious consideration.  
23 And remember that this is the time, this is the time to  
24 clean up any negatives that we have in the regulations that  
25 doesn't provide the miner with the greatest protection that

1 they need.

2 I'll remind you, as I think the Mine Act states,  
3 that one of the most precious resources that we have today  
4 is the miner. And that should always be first and foremost  
5 thought of when we're putting in new regulations.

6 I won't take a whole lot of cleaning up to change  
7 these regulations before they're submitted. This is the  
8 time to do it. We all know that it usually takes lives --  
9 loss of lives to get any new regulations passed. So let's  
10 don't pass up this opportunity to improve on what we have  
11 today.

12 When you go back, please remember, please read the  
13 reports -- not only the MSHA report, but the UMWA report on  
14 the disaster at Number 5 mine and also the internal review  
15 that your agency has conducted.

16 Once again, thank you. If you have any questions  
17 of me, I'd be glad to answer them.

18 MR. NICHOLS: Now which mine do you work at?

19 MR. PLYLAR: Jim Walter Resources Number 7.

20 MR. NICHOLS: Okay. Do you have any idea of how  
21 many additional AMS units you're talking about, say for that  
22 mine?

23 MR. PLYLAR: Not off the top of my head, I  
24 wouldn't be able to give you a number. But I think it is  
25 very easily and feasible to achieve.

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1           MR. NICHOLS: Okay, thanks. Okay, the next  
2 presenter will be William Englebert, Jr., UMWA.

3           MR. ENGLEBERT: Good morning. William Englebert,  
4 UMWA. I work at the Number 4 mine, Jim Walter.

5           One thing I want to touch on is communication. I  
6 worked on D-gas for over 20 years. And that's one thing  
7 that's really dangerous is to have methane gas. We didn't  
8 have no communication and people was working towards the  
9 face and that's one thing they need to improve was  
10 communication.

11           And then a lot of times the boss would get the bus  
12 and go elsewhere to get the lines. Maybe water to drain  
13 lines out, you know, and leave us without a bus. And that's  
14 one thing, communication and transportation.

15           Even though those people was working on towards  
16 the section, we were driving in behind the section, we would  
17 have a way to communicate with them if something did happen.

18           And that methane gas is really dangerous. I've  
19 seen that methane do some strange things. I just wish  
20 they'd have better communications and transportation.  
21 Because us, when we're working, especially with that methane  
22 gas, because it's really deadly. And we need more detectors  
23 to check for methane. We've had a guy die.

24           And communication at the site itself with people  
25 that's working down below us in case something does happen.

1     Because that methane gas is something else.

2             So far we have had no major problems with anything  
3     happening when we were driven. But most of our drills are  
4     hydraulic but also electrician -- with another machine. But  
5     now they're trying to bring in a machine that's electric.  
6     And they don't understand, I hope they've got the education.

7     When you're setting up there in front of a pole trying to  
8     drill and you've got an open hose when you're putting your  
9     slotted pipe in, you've got lights up there. If you have a  
10    short, it's a disaster.

11            And that's one thing that they're trying to get  
12    approved now is this type drill. One thing I can say is  
13    communication and transportation should always be there for  
14    us, which it hasn't been in the past. I appreciate it.

15            MR. NICHOLS: Okay, thank you. The next presenter  
16    will be Glenn Loggins, UMWA.

17            MR. LOGGINS: My name is Glenn Loggins. I'm here  
18    today on behalf of the Safety Committee, Jim Walter  
19    Resources Number 4 Mine, Rookwood, Alabama.

20            Jim Walter, you know, we're kind of different a  
21    lot of mines. We're just totally shag mines. We're 2000,  
22    2700 foot is what Jim Walter mines are. You know, you can't  
23    -- we just depend on our elevators. You can't walk out. A  
24    lot of mines you can just -- you have a problem, you just  
25    walk out. But we can't do that. We've got to take -- we go

1 to the service hoist -- when it goes down, you know, it  
2 breaks down, you can't -- you say, well, we're going to  
3 produce coal. Well, is coal more important than a man's  
4 life? I don't think so.

5           So, you know, there's no law that governs when we  
6 could go to an auxiliary hoist. Our auxiliary hoist should  
7 be primarily to get people out of the mine. It shouldn't be  
8 to send people in to produce coal. But when it's used to  
9 send people underground to produce coal I don't believe is  
10 right.

11           You know, we have -- only eight people can ride  
12 out auxiliary at a time. We have up to 125 on a shift. But  
13 we hot-seat, you know. You could go even higher than that  
14 with numbers.

15           Just without counting loading and unloading time,  
16 you count two hours to just get people in and out of the  
17 mine. You know, I don't feel like that's the right way of  
18 getting people out if you had people hurt.

19           You know, I feel like putting more miners, remain  
20 underground for long periods of time, when you need to  
21 evacuate them.

22           Another thing we've got too, is our belt air  
23 partitions, they're old. And our belt air partitions, we  
24 can withdraw our people depending on the direction of air.  
25 It says you withdraw out by the sensors. It don't say you

1 withdraw them to the surface, just withdraw them out by the  
2 sensors. You could put them out into the CO.

3 I believe you need to look at belt air partitions,  
4 making the belt air partitions where they will protect  
5 miners' lives instead of just putting people in harms way.

6 That's all I've got. I appreciate your time.

7 MR. NICHOLS: Okay, thanks, Glenn. The next  
8 presenter will be Jim Brackner, UMWA.

9 MR. BRACKNER: Good morning. My name is Jim  
10 Brackner, B-R-A-C-K-N-E-R. I'm a proud member of Local 2245  
11 of the United Mine Workers of America. And also an employee  
12 of Jim Walter Number 4 mine.

13 I've been listening to my brothers speak. They  
14 all speak the truth. I don't have near as much to speak on  
15 as they do, but I do want to touch on one topic that's very  
16 important to me. I keep reading through this proposed rule  
17 or final rule and the words rapid, safe, efficient,  
18 protective, keep popping up. But as several of my brothers  
19 have already spoken, there's no way to rapidly, safely,  
20 efficiently evacuate a mine without transportation.

21 Normal travel time is anywhere from 30 to 45 to 50  
22 minutes from the bottom of the section. I've seen sections  
23 without transportation anywhere from two to four hours  
24 during a shift.

25 I know Part 75 addresses the need to maintain safe

1 transportation, maintain safe conditions. But nowhere in  
2 Part 75 or in the emergency temporary standard is the need  
3 for immediate transportation.

4 Coal miners need to be able to have immediate  
5 transportation. Thank you.

6 MR. NICHOLS: Okay, thank you, Jim.

7 We have 15 people signed up to speak. We've had  
8 nine speak. And so let's take a break until 10:30 and  
9 coming back, Ricky Parker will be our first.

10 (Off the record.)

11 MR. NICHOLS: Okay, is Ricky Parker here?

12 MR. PARKER: Yes, I am.

13 MR. NICHOLS: Okay, come on.

14 MR. PARKER: Thank you for letting me come before  
15 you. I think you want what we feel is pertinent to having a  
16 proper emergency standard that each mine needs across the  
17 United States. And that's what we want at the Number 5  
18 mine, that's what we would like to have.

19 I'm Ricky Parker. I'm with the United Mine  
20 Workers, Local 2368. I work for Jim Walter Resources Number  
21 5 mine, more than 23 years experience. And I've been a  
22 representative for the United Mine Workers for more than 10  
23 years now.

24 I just went through the major mine disaster at Jim  
25 Walter Number 5 mine. And would like to express to you all

1 what we feel would be very pertinent to have in the  
2 emergency standards to be efficient.

3           Going through the procedures of the mine disaster  
4 and what some people faced that afternoon, we feel that the  
5 mine -- I mean the emergency standards should include that  
6 the responsible person be included not only on the surface  
7 but an underground responsible person also, to apply what  
8 needs underground if an emergency does happen.

9           Also, with that responsible person, we feel that  
10 an additional person is needed to help with the procedures  
11 of a mine disaster. Because that person that was in that  
12 room today going through that mine disaster was overwhelmed  
13 with calls from outside the mine and what was going on with  
14 cells phones and over the mine phone.

15           To also help the situation, we feel that the  
16 emergency standards should include a better form of  
17 communication, improvements in the communications system in  
18 the CO room or anywhere the responsible person to direct  
19 outside calls away from that mine and the emergency  
20 location, to either another person that could help him in  
21 that situation, so he could strictly deal with the  
22 communication coming from underground and the needs that  
23 need to be applied underground for either medical or what  
24 have you.

25           We, as far as the emergency standards, can't

1 understand how the responsible person that is outlined in  
2 the present emergency standard, how he could be allowed to  
3 go underground because of the need for him to be on the  
4 surface to administrate -- administer emergency procedures  
5 as far as ambulances, life saver helicopters or what have  
6 you like that. We cannot agree with that. We feel that  
7 that responsible person on the surface should stay there.  
8 And a person that would need to go underground on his off  
9 days, which Jim Walter has, there are still people working,  
10 which they have declared as the responsible person working  
11 seven days, 12-hour shifts, seven days and then they're off  
12 seven days. And on their off days, if they could go  
13 underground to understand and learn the mine.

14           To echo some of my fellow brothers that's come up  
15 here earlier, we feel that intelligence gathering tools are  
16 needed underground. Through the MS system like they have on  
17 the belt lines. Through negotiations between Jim Walter  
18 Resources and among United Mine Workers, we have went above  
19 and beyond that. And we now have in our returns, returns of  
20 our sections, CO monitors which collects and in the near  
21 future we will have flow meters which will give you the  
22 intelligence that air is flowing in the proper direction in  
23 the case of a mine disaster.

24           Where our response crews will have that  
25 intelligence before they're sent underground and that

1 responsible person on the surface can have that intelligence  
2 to give them. We feel that these tools, to be fair, that  
3 the responding crews should not be allowed to go underground  
4 to that area where the disaster is coming.

5           We also feel that the -- I don't know if you can  
6 apply this to the emergency standard of course, but 30 CFR  
7 should include that standing support be added around all  
8 electrical installations. If we'd have had standing support  
9 around the electrical installations in the form of a battery  
10 -- battery support that day, it might have prevented the  
11 mine disaster from happening at Jim Walter Number 5 mine.

12           Also at Jim Walter Number 5 mine we have methane  
13 detectors in the belt entry and the track entry, which are  
14 both intake entries. We have the availability of the  
15 methane detector in the track entry de-energizing the power  
16 center if one percent of methane is found.

17           Under the new emergency standards it talks about  
18 training of the miners and having the tools to use before  
19 they go underground. We feel that needs to be expanded on  
20 to explain how these miners are to be trained. These  
21 responding crews that will be going into an area of a mine  
22 disaster, how they're to be trained. And what tools that  
23 they're to have to properly protect themselves in the event  
24 that they go -- or come up upon -- you know, to monitor CO  
25 or methane or what have you like that, or low O2, which is

1 oxygen.

2           To assure communication underground, we feel that  
3 the emergency standard should include two means of  
4 communication underground. One being either a mine phone  
5 for communication, one being either a leaky bleeder system  
6 for communication, and also to include the new bid system  
7 that's on the market now, which is a proven -- which has  
8 been proven through many instances across the nation and  
9 Australia where it was developed.

10           As my fellow brothers have expressed earlier, the  
11 need for transportation in underground mines in working  
12 sections is very pertinent. You can have a mine evacuation  
13 plan detailed to the fullest extent, but if you do not have  
14 the transportation to transport these personnel out of the  
15 effected area, the mine evacuation plan is useless.

16           So therefore, we feel that the emergency standard  
17 should address transportation being maintained in the areas,  
18 whether it be production or should it be an out of shift  
19 with people working in that area.

20           Our concerns across the board at Jim Walter Number  
21 5 mines have been the unavailability of the service hoist,  
22 for whatever reason. And is it proper to allow miners to go  
23 underground to produce coal without the availability of  
24 rapid evacuation.

25           I understand the need for production. That's what

1 pays the bills, that is the way the bread and butter is  
2 earned by the mine workers and the Jim Walter management is  
3 by the production of coal. But, a human life is more  
4 important than production at certain points. And we have to  
5 understand that. We cannot understand or agree with sending  
6 people, personnel, underground to produce coal when the  
7 service hoist is down. And not only -- just only having the  
8 emergency hoist available or the capsule that will hold two  
9 people at an intake shaft where you bring them -- you can  
10 bring them out of the mine.

11           We also feel that the phone communication should  
12 be required by the emergency standards. At all the  
13 emergency stations underground where the emergency  
14 firefighting equipment is available, that these phone  
15 systems be maintained. We also feel that escape-way masks  
16 should be placed at strategic locations in all escape-way  
17 entries and be protected so they will be available to the  
18 miners in the case of an emergency.

19           We also feel that these emergency standards should  
20 include, upon notification from the responsible person on  
21 the surface when a mine evacuation should take place, that  
22 all battery powered equipment shall have the battery  
23 terminals disconnected, if time allows. Because at Number 5  
24 mine, the battery was the major source of the first ignition  
25 that caused this mine disaster.

1           We, the health and safety committee from UMWA  
2 Local 2368, feel strong that each mine current evacuation  
3 plan should be proven to accurately and efficiently evacuate  
4 both timely and safely all personnel underground in the case  
5 of a mine fire and evacuation procedure where it's  
6 administered by a responsible person. We feel that this  
7 plan should be gone over and proven to evacuate the people  
8 safely before these plans are approved.

9           It's easy to draw up some language on a piece of  
10 paper and say this is what we're going to do. And until  
11 that plan proves that they can demonstrate, both efficiently  
12 and timely, to get all the personnel underground, we feel  
13 that the approval process should wait until it's proven.

14 Thank you.

15           MR. NICHOLS: Thank you, Ricky.

16           MR. SEXAUER: Can I ask you a question?

17           MR. PARKER: Yes, sir.

18           MR. SEXAUER: Ricky, if you don't mind, I'm going  
19 to read you a couple sentences from a written comment that  
20 we received and I'd like to have your response to it.

21           This is in the line of communications. Okay, the  
22 comment says, The shift foreman would not -- would know the  
23 initial assignments of employees on the shift and support  
24 workers such as mechanics may be sent out during the shift  
25 to other jobs and the shift foreman may not be aware of

1 these changes. The responsible person will also not know,  
2 for example, the location of every miner who might be  
3 inspecting the bleeders or every miner who is delivering  
4 supplies around the mine or every parts runner traveling in  
5 the mine. It is not possible to know the location of all  
6 miners at all times who are underground.

7 Now, take mechanics out of the equation for the  
8 time being, obviously you don't agree with that or do you  
9 agree with it?

10 MR. PARKER: Well, if you are transporting -- the  
11 way I interpret the new emergency standards, okay, this  
12 person, when he's underground on the bottom with a surface  
13 shaft where -- that mine site. He calls and tells the  
14 responsible person on the shift, hey, I'm going in by -- you  
15 know, he might be going to numerous locations. He could be  
16 going to build installations, going to long wall A belt or  
17 long wall C or six section belt or what have you. When he  
18 gets over here, if it's long wall 8 belt, he'll call and  
19 say, well, I'm going to long wall 8 belt. I'm fixing to  
20 leave to go over to belt drive 6, what have you. He still  
21 does not know the approximate -- the proximity of that  
22 person at that time. So it's kind of in limbo there, to  
23 answer your question.

24 MR. SEXAUER: I guess what I'm asking is, what do  
25 you see as the best way to locate miners underground as --

1 as exactly as you can?

2 MR. PARKER: Well, we have had a lot of success  
3 since we have went above the -- just having the mine  
4 communication phone underground and using the leaky bleeder  
5 system. Where we have had deficiencies in that is that for  
6 one reason or another the buses don't have speakers.  
7 They've either been taken off, somebody's gotten them or  
8 something like that and they're not putting them back on  
9 properly. You're going down the track on a piece of power  
10 equipment, you cannot -- it's very, very hard to hear over  
11 the rumble of that man-trip. And here this person could be  
12 calling in and you're traveling down the track and you don't  
13 know that he's communicating with you at all. And you can  
14 be going in by the mine disaster but you don't know has even  
15 happened. Do you understand what I'm saying?

16 Now, understand with what we went over with PEP  
17 system, that's the reason I made mention of the PEP system,  
18 it has a signal that goes off and it's a visual signal that  
19 you can see that gets your attention. Where you might not  
20 hear the communication and you might -- you're not by a mine  
21 phone to see the light blinking that somebody's calling you.  
22 You don't know if they're calling you anyway.

23 So, you know, those are three forms of proven  
24 things that are on the market that I believe as far as cost,  
25 efficiency and the importance of it, it, you know -- I

1 understand cost, believe me. It's something that you deal  
2 with each and every day. But, the importance of human life  
3 to me far exceeds the cost factor here.

4           It's constantly a complaint at the mine about, you  
5 know, you can't hear the system when you're going down the  
6 track. We've brought it numerous times up in safety  
7 communications and made recommendations to even go to some  
8 type of maybe an earpiece that can plug into the system to  
9 go into the operator's ear. So he will have direct  
10 communication with that system.

11           It would be a very, very valuable tool. Now,  
12 there's ups and downs of that also. You know, you couldn't  
13 have the same person using that thing over and over again.  
14 That's understandable, too. But if we could have some --  
15 just, you know, earmuffs that would plug into it where that  
16 operator could hear somebody calling for him or there's been  
17 a mine disaster and they're going into it. It would stop  
18 them, prevent them from going into that area.

19           MR. SEXAUER: Thank you.

20           MR. PARKER: Thank you.

21           MR. NICHOLS: The next presenter will be Randy  
22 Clements, UMWA.

23           MR. CLEMENTS: My name is Randy Clements. I'm  
24 with the UMWA, Local 2368. Jim Walter Resources Number 5  
25 mines.

1 I've worked for 22 years. I've been an elected  
2 section representative for 17 years.

3 On Sunday, September 23rd, two explosions occurred  
4 at our mines that claimed the lives of 13 miners. That  
5 evening 32 miners went to work and only 19 made it out alive  
6 that day.

7 At 5:20 p.m. the first explosion of two explosions  
8 occurred on 4 section, approximately 3.3 miles to the  
9 surface where miners enter and exit the mines.

10 There was 12 miners working within one mile of the  
11 surface shelf bottom. Six of those 12 miners lost their  
12 lives that day.

13 These 12 miners was directed by the control room  
14 operator to go to 4 section to help. These 12 miners  
15 driving into the mine some three miles and some had no  
16 knowledge that there had been an explosion. And some was  
17 only told that there had been -- that they needed help.

18 As we know from MSHA's investigation report, at  
19 approximately 5:45 p.m. the section foreman on 4 section  
20 contacted the control room operator and told him there had  
21 been a roof fall and shortly thereafter an explosion  
22 occurred that damaged the return.

23 These 12 miners were sent in after this  
24 communication was relayed to the control room operator.  
25 They had no knowledge that there had been an explosion.

1           The Mine Act defines imminent danger to miners due  
2 to fire, explosion, gas and water inundation. We believe  
3 that because the major damage to the return that would have  
4 allowed the intake air to short circuit into the return and  
5 allow methane to accumulate on 4 section, that played a  
6 major part in the second explosion.

7           Therefore, the Mine Act should also include damage  
8 to major ventilation controls is also an imminent danger to  
9 miners.

10           The new standard should require that the  
11 responsible person is one person stationed on the surface.  
12 After all, on September 23rd, after the second explosion,  
13 myself and others was frantically looking around on the  
14 surface trying to find out where these people was assigned  
15 that day, trying to find their locations underground. The  
16 only person that had that information with him was the man  
17 that was in charge of that shift that day, he also lost his  
18 life.

19           We found that assigned location of the miners some  
20 40 days later after their bodies was recovered.

21           Because of this, the responsible person should be  
22 stationed on the surface and if people say it's best to have  
23 one underground, then also one should be stationed  
24 underground.

25           The new standard should require the responsible

1 person to travel on a routine basis in order to familiarize  
2 himself with operations of the mines underground. This  
3 should only be done at times when the person -- the  
4 responsible person on the surface are not responsible for  
5 carrying out their duties under these new standards.

6           The new standard should require an updated  
7 ventilation map to be posted with major ventilation controls  
8 identified on the map. That way if the responsible person  
9 is communicating underground due to an emergency, he can  
10 make a quick response that that major ventilation control  
11 had been interrupted and that they should be evacuated.

12           The new standard should require that the  
13 responsible person work a minimum number of hours. At Jim  
14 Walter Resources, all three of their mines they have a CO  
15 room operator which they have designated as the responsible  
16 person. These people work seven days on, seven days off.  
17 They work 12-hours a day. That's 84 hours a week.

18           On September 23rd the control room operator was  
19 working out his last shift that week. There is no way  
20 people can stay in the right frame of mind sitting in a room  
21 for 12-hours a day, seven days a week, looking at  
22 instruments, taking in phone calls. We have set up there  
23 and witnessed them where there have been as much as ten  
24 phone calls every three minutes. There's no way the people  
25 can do that.

1           Mine emergency drills. The new standard should  
2 require that the drills be conducted every three months.

3           The new standard should require that emergency  
4 drills be evaluated by representatives from MSHA, miners'  
5 representatives and a representative from the company.

6           The new standard should require that the mine  
7 emergency drill include a full evacuation of the mines. And  
8 a full emergency response to an effected area that has been  
9 designated by the emergency drill.

10           At this time I'd like to touch a little bit on  
11 self-contained, self-rescuers. During the explosion a lot  
12 of the people that didn't lose their lives that day,  
13 rescuers were blown -- hats was blown off of them and they  
14 couldn't see what they was doing because of the dust.

15           In 1993 MSHA said that our mines had had a small  
16 methane explosion that injured four miners. Three of these  
17 miners never returned back to work due to their injuries.

18           All these miners testified that they could not  
19 open their rescuers due to their injuries. In 2001, after  
20 our second explosion -- after the first explosion, one miner  
21 testified that he struggled to open his rescuer due to his  
22 injuries.

23           Therefore, MSHA put together a task group to look  
24 at redesigning the SGSR so that miners can easily open these  
25 rescuers.

1           The new standard should require an annual  
2 refresher training. That the miners be required to don  
3 their SGSR in total darkness. At Jim Walter Resources we do  
4 that. We are sent into a room, lights are turned out, we're  
5 given one minute to don our rescuers and the lights are  
6 turned back on, see how successful you are.

7           The new standard should require that self-  
8 contained, self-rescuers be required to be on the miner at  
9 all times while he's working underground.

10           As far as I know we haven't had a storage plan for  
11 SGSR's. In most cases they would be stored up on the  
12 section. After our first explosion, these people could have  
13 never reached their rescuers. They would have been blocked  
14 off from them. Fortunately, we carry ours on our side.

15           In closing, on September 23rd my industry  
16 witnessed one of the worst mining disasters in some time.  
17 Most of the 12 miners who lost their lives had no knowledge  
18 of the condition of an area that they were going into due to  
19 poor communication and poor mining evacuation.

20           Nevertheless, these 12 miners went for one reason,  
21 one reason only, that was to rescuer that fallen miner.  
22 They succeeded but they ran out of time.

23           At the time of the second explosion, 28 of 32  
24 miners working that day was 5400 feet from the explosion  
25 area. If the same explosion would have been ten minutes

1 later, who knows how many of those miners would have lost  
2 their lives that day. Because a group of miners was waiting  
3 at 459 switch, ready to travel into 4 section to help when  
4 the second explosion went off.

5 For those 13 miners and those miners that have  
6 lost their lives, we must change the current laws on the way  
7 the company writes their firefighting, evacuation plan. And  
8 you must come up with stronger laws so that miners' lives  
9 can be protected. Thank you.

10 MR. NICHOLS: Thank you, Randy. Did you say the  
11 surface responsible person works seven 12's?

12 MR. CLEMENTS: No, it -- yeah, 84 hours.

13 MR. NICHOLS: And then off --

14 MR. CLEMENTS: Then off for seven days.

15 MR. NICHOLS: Off seven days.

16 MR. CLEMENTS: Work seven, off seven, 12-hour  
17 shifts.

18 MR. NICHOLS: Okay.

19 MR. CLEMENTS: Is that it?

20 MR. NICHOLS: That's it, thank you.

21 The next presenter will be William Sawyer, UMWA.

22 MR. SAWYER: Good morning. I'd like to thank you  
23 all for the opportunity for all the testimony at this point.  
24 My name is William Sawyer. I'm a member of Local 1926. I  
25 work for P & M Coal Company. But if you refer to me,

1 Hacksaw is what most of you all know me by.

2 This emergency temporary standard is long overdue.

3 And we congratulate you that you came up with what you have  
4 but there is a lot of shortcomings in this particular reg.

5 The transportation issue has been brought up  
6 several times here. And our mine at P & M is a whole lot  
7 different than Jim Walters. But I have had the opportunity  
8 to work at two of their mines, so I kind of know the  
9 difference in the transportation.

10 Our transportation problem sometimes falls in the  
11 same scenario theirs does, they relieve on the face and  
12 sometimes the face people don't have transportation on that  
13 section.

14 Also, we have a mine that we mine, we mine an area  
15 out and then we back off and seal it up. But we also have  
16 six miles of main belt. We also have a long wall belt that  
17 can range up to two miles. We have a section that drives in  
18 that could range up to two miles. And also another section  
19 that's driving the main to turn -- that butts off for the  
20 driving section to come to.

21 So a lot of times, especially if we go in to do an  
22 inspection, we go in and there's not anything charged up  
23 because we're primarily battery transportation. We have  
24 diesel locomotives and foremen jeeps, but the man-trip is  
25 battery.

1           A lot of times we don't have anything charged up  
2 enough to go make an inspection. We have to wait for a ride  
3 or hitch a ride or hit the track walking. So a lot of times  
4 transportation is a serious problems in our mines.

5           The point on expand the training and simulations,  
6 I think every miner should be trained in an emergency. And  
7 a specific point is the MER training that most of us has  
8 had. And you can see in the MER training, it's a  
9 simulation, that things can get so confused that you lose  
10 thought of everything going on. So a real disaster, you can  
11 multiply it by -- how many times?

12           So I think that's an important issue, the training  
13 of all miners in an emergency situation.

14           I think to demonstrate evacuation, I think that is  
15 also -- it should be a mandatory thing. To walk in and say,  
16 okay, you've had a disaster on this end of the mines, who's  
17 your responsible party and start from there and go and see  
18 how it acts, to see if it is working. Because believe me or  
19 not, one of my statements here is that they have the  
20 responsibility to term this plan in but there's a lot of  
21 shortcomings, a lot of trap doors and a lot of loopholes  
22 that a deficient plan could fall through if it's not  
23 followed up on and practiced every once in a while.

24           Our communications, like I say, I've had the  
25 opportunity to work at Jim Walter mines and I kind of know

1 their communications system. But at P & M, we have strictly  
2 the mine phone. One means of communications.

3 We have a mines that's about six miles long and  
4 there's a lot of problem about the communication systems.  
5 Sometimes you can't talk from one end of the mine to the  
6 other. You have to call whichever end you can and get them  
7 to call cross country by bell phone to get in touch with the  
8 other end of the mines.

9 I think as Brother Keith said, we have pushed for  
10 AMS's for a long time. And I think it's time that we  
11 realize that mines need automatic monitoring systems.  
12 Because it is technology that goes along with all the  
13 technology of mining. It's a necessity.

14 In our mines we don't have it. But we have an  
15 audible alarm on nearly every mechanical thing around that  
16 mine. If any belt goes down, outside, inside, the fan goes  
17 down, anything mechanical goes down where you can get back  
18 to it and get it fixed and get production back under way,  
19 we've got an audible alarm. But as far as automatic alarm  
20 system to let us know of the atmospheric conditions in the  
21 mines, we don't have it.

22 So I would ask that you strongly look at this when  
23 you go back.

24 I talked to a couple of my brothers here, and it  
25 seems like, you know, we're the old generation now. Well,

1 the mining industry went a long time without hiring anybody.  
2 And now they're hiring a lot of new inexperienced miners.  
3 And I think the emphasis is going to have to be put on their  
4 training because they're like Babes in Toyland, they know  
5 nothing about mining than what they pick up from experienced  
6 miners at work. And what little bit of training they get  
7 before they go in the mines is all they know.

8 So I think there's a real need for a lot more  
9 training for new miners, the inexperienced miners.

10 Sir, you asked the question directly, do you think  
11 that you can keep up with the work force underground by the  
12 way that the new reg says and I say no. There's no way --  
13 your work force is limited. You've got so much work to do,  
14 your work force moves so much and you're putting so much  
15 responsibility on this one responsible person, I see no way  
16 he can keep up with it. But we've overlooked people that's  
17 doubling back that's not on the list to work that day. They  
18 can be lost in this work force location.

19 So, yeah, that's a hard question, how are you  
20 going to keep up with everybody without some kind of high  
21 tech means. Because that is -- if you lose your  
22 communications where you call and say I'm moving here or if  
23 you've got a belt crew working on a belt that's down that  
24 shift and a belt that's on production that shift goes down,  
25 they'll split that crew and send half to the other belt and

1 the other half won't have transportation because they had  
2 planned on this one job. So, yeah, that's a tough question,  
3 sir, to keep up with the work force.

4           From what I read on the responsible person under  
5 the Section 75.1501, my first question is, if this person is  
6 underground and happens to be involved in the disaster and  
7 taken out, what happens then? I know the reg gives every  
8 person the right and responsibility to report a disaster.  
9 But, you know, take Number 5 for instance, a man had to walk  
10 out and tell people. And he was dazed and had been through  
11 a trauma. So, you know, how much accurate information did  
12 he give?

13           So, you know, that's one thing to think about.  
14 I've heard, should he stay on the surface, should he go  
15 underground. I firmly believe he should know that  
16 underground like the back of his hand. That's something  
17 else that comes back into my mind. With the responsibility  
18 you're putting on this responsible person, I believe it's  
19 going to require training for him because this man is going  
20 to have to know as much or more than a man that's going to  
21 take his mine foreman test. Well, you can't pull a miner  
22 out and send him and him pass the test.

23           So to know all that's put on this responsible  
24 person, you know, you may need to look at some training for  
25 him. Because he's going to carry a burden on his shoulders.

1           Brother Keith also brought up the point about the  
2 qualified people. And I always like to follow Brother Keith  
3 because he's thorough.

4           Under the qualified people to respond, I'm in full  
5 agreement with him, that in a disaster situation where you  
6 have to evacuate, you need an evacuation point where  
7 everybody meets up before you send those qualified people  
8 in. So that they can get a full report of the information,  
9 the equipment they need, and what they're going into.  
10 Because even if -- if you're a qualified person and you  
11 think you're going in to fire and you go in to where there's  
12 been an explosion, there's no fire but there's no air,  
13 there's no gas, there's no nothing else. You have no AMS,  
14 no reports of what condition is down there, that qualified  
15 person is just like an unqualified person. He's walking  
16 into a death trap.

17           So, yes, I think all of them ought to be brought  
18 out and meet at a central location and then dispersed into  
19 whatever the condition that exists.

20           That looks about like all I've got. Like I said,  
21 we're from P & M and our mine, the coal mines, and the way  
22 it is at all mines, it waits for an individual to get  
23 careless, an inspector to get careless or a company to get  
24 careless and then it rears it's ugly head.

25           The Bible tells us that what greater gift does a

1 man have than to give his life and I consider that 12 of  
2 these men gave the greatest gift they had to try to save a  
3 buddy.

4           You all have been given the responsibility of the  
5 gift of setting up the regs to protect these mens lives. So  
6 I would ask that you all go back and to look at the  
7 testimony you have here and to do what you can, please,  
8 thoroughly and thoughtfully, go through this and close all  
9 those trap doors and loopholes that I was talking about. I  
10 thank you. Any questions?

11           MR. NICHOLS: Thank you, William. The next  
12 presenter will be -- I believe it's Eric Barnes, UMW.

13           MR. BARNES: My name is Eric Barnes, 2368. I work  
14 at Jim Walter Number 5 mine.

15           My brothers before me here have pretty much hit on  
16 everything that I want to talk about. I wished I had a  
17 better picture, but this is the picture I look at pretty  
18 much every day. These are the friends that I work with and  
19 I lost on September 23rd.

20           Training is one of the key factors here in my  
21 opinion. I've been employed at Jim Walters for 21 years. I  
22 worked with a guy -- I was hired with a guy that they were  
23 going to rescue. For 21 years I have never been trained to  
24 evacuate a coal mines. For the years that those men have  
25 been in that mines I would say that they had never been

1 trained to evacuate a coal mine.

2           We'd all been trained to go and take care of  
3 somebody. And on that day I got the call that the mines had  
4 blown up. I was setting at my house with my wife and my two  
5 children.

6           And that instinct came out to go help. It's not a  
7 hero. It's an instinct of coal miners. We all take care of  
8 each other. I drove to the mines wanting to help. When I  
9 got to the mines I was asked was there a man-bus  
10 underground. Well, I had no knowledge of a man-bus  
11 underground. My rescue had to have a man-bus. I got on the  
12 case and went underground. Now this was after the mines had  
13 blown up twice. Not knowing of this, not knowing the extent  
14 of what had just taken place. I mean that's how chaos it  
15 can get. I mean it can get just crazy when something like  
16 this takes place.

17           We've got to have training. We've got to have  
18 some type of training to be aware of our surroundings if  
19 something -- a disaster takes place underground. Look at  
20 our ventilation controls. We need the monitors in the  
21 returns. We need all the technology that we can put into  
22 this to keep this from every happening again.

23           Evacuation drills. I think we should have it  
24 every three months if not more. All three shifts, everybody  
25 in the coal mine. Have an evacuation drill.

1           I think the UMWA and MSHA and the company should  
2 monitor it and see where our faults are and work on those.  
3 Because there's going to be faults and we just have to work  
4 through them.

5           I think the mines, as these men before me said, we  
6 should have two way communication. I think we should have  
7 transportation on all the sections at all times when people  
8 are up there. Because you have no way out of those mines if  
9 that bus leaves and we're hot-seated. And most coal mines  
10 hot-seat.

11           When that bus leaves on a regular shift, you've  
12 left people in the mines with no way to get out except by  
13 foot. And as far in as our mines are, you would never make  
14 it. They'll never make it.

15           I think the CO operator, which at our mines that's  
16 the responsible person, I think he needs special training.  
17 I think he needs help when a disaster takes place. There's  
18 no way this man can keep up with everybody in the mines by  
19 hisself. I've been up there, I've watched him, I sit with  
20 him, they've got numerous phone calls coming in, they've got  
21 leaky bleeder calls coming in and that's what we're required  
22 to do at our mines is to call when you move from location to  
23 location.

24           There's no way he can keep all this in his mind of  
25 where this person went. It's not being documented. So

1 there's no way when something happens he'll know where Joe's  
2 at, Bill's at, so on and so forth. You know, there's no  
3 way.

4 He needs -- he needs some special training, he  
5 needs help. He needs help in this field.

6 I think that's all I have. I just hope that we  
7 can put some teeth in this law that will hold these  
8 operators responsible and let's not let this happen ever  
9 again. If we can prevent it, let's do our best not to let  
10 it happen.

11 We're here to help. With your help, we can make  
12 it happen.

13 MR. NICHOLS: Okay, thanks, Eric.

14 Okay, the next presenter will be Terry Lee Hunter.

15 MR. HUNTER: My name is Terry Lee Hunter. I work  
16 at North River Mines. I've had the -- I don't know if it's  
17 pleasure or unpleasure of working both Jim Walter and P & M  
18 Coal. I started at P & M -- I mean P & M back in '79. I'd  
19 be laid off at one, I'd get on at the other.

20 I've had safety meetings at both mines. I'd just  
21 like to make a comment or two. You all have passed some  
22 good rules and regulations. But you don't follow up on  
23 them.

24 I've worked -- I've never been asked by a federal  
25 man have I been on a fire drills, have I walked this escape

1 way at either mine. Have you all gone back and checked your  
2 records of the walks? I know you check your records. But  
3 do you ever go ask the men, have you walked the escape ways,  
4 have they done a fire drill?

5 All the records and laws ain't going to do it if  
6 you don't have a follow up, a check.

7 On your emergency transportation, as Hacksaw said,  
8 at North River our mine is a little different. It's battery  
9 operated. They hot-seat on the sections. We haul equipment  
10 -- or supplies in. A section moves -- they move about every  
11 day. They leave our supplies on the supply car on the  
12 track. Most times -- it's not every day they haul new  
13 supplies up on the section. The man-bus out by the piece of  
14 equipment. They have to pull that man-bus out, do a switch  
15 out. Leave it out there, to take the supplies in and out  
16 you've got to take the man-bus back up there.

17 We need transportation at all times on the  
18 section. You want quick, effective, safe means of  
19 transportation on the section. We've got to have  
20 transportation there, you take the track up close to the  
21 section. If you've got to walk six, eight, ten cross cuts  
22 by the time you get off the tracks up to the section, you've  
23 got to take that into consideration.

24 We've got one means of communication at our mines.  
25 If the communication goes down, men keep on working. We've

1 got a lot of shale rock. It falls, it breaks your lines and  
2 you've got to trace it down to repair the phone lines and  
3 everything. You've got other people, belt crew, belt  
4 cleaners, fire bosses, walk bleeders, returns. You've got  
5 to have some means of communication.

6 Most of the time they may get to the head or see a  
7 head person and they'd talk to them and go on. That's about  
8 the only communication you have with them. They get to  
9 work.

10 We have training for the responsible person. As  
11 Hacksaw said, you don't say what type training, where is he  
12 located, outside, underground? I think the responsible  
13 person should be outside, he should have a map of all the  
14 power installations, pumps, ventilation controls, at his  
15 availability to check on that. The location of all the  
16 firefighting equipment underground should be at his disposal  
17 right there.

18 If the responsible person goes underground, most  
19 times there's going to be the section -- day shift line  
20 foreman. He don't stay right there at the bottom. He goes  
21 -- he's got the belts or he's got something he's got to go  
22 look at, he ain't around the phone all the time. He may  
23 leave it to you or somebody else while he's gone.

24 If they write down the location of all the people,  
25 if he's out, how long is it going to be to get it from him,

1 before you can get him to do his job if he's the responsible  
2 person.

3           The emergency standards fail to define what is  
4 proper training for the people underground. It doesn't say  
5 how much training or how long, what type of equipment to  
6 have when they go in, the monitoring system.

7           On the training, most of the time you say you  
8 trained but you've got to have refresher training. Every  
9 time you come up with something, you have to have  
10 retraining. How much stuff can you put in eight hours of  
11 retraining? Have you thought about that? You keep adding  
12 stuff. You don't make eight hours any longer. You keep  
13 adding stuff to it and you have to take something out.

14           On the training, of the people that already  
15 talked, I believe Hacksaw or one of the other brothers said,  
16 MSHA should walk in one day unannounced, lay a piece of  
17 paper down there, you have an emergency here, how are you  
18 going to handle it. Don't let them know when you're coming.  
19 They're going to have everything they need to do it. Just  
20 walk in and lay it down and say you have an emergency here.  
21 Let's see what you're going to do. See if it's failed or  
22 passed. I'd rather do that than see one life lost. We've  
23 had too many lost.

24           Every law you come up with, somebody's lost their  
25 life to get that law. I'd like to see laws made before

1 somebody gets killed.

2 If I have other comments, I'll have them up there  
3 by February 28th. I appreciate it. Any questions?

4 MR. NICHOLS: Thanks, Terry. The next presenter  
5 will be Tom Sweeten, UMWA.

6 MR. SWEETEN: Good morning. My name is Tom  
7 Sweeten, S-W-E-E-T-E-N. I'm the representative of the  
8 miners for the Consolidation Coal Mines in Southern  
9 Illinois. I'm a member of Local Union 1545 and District 12.  
10 The first thing I'd like to say, and I'd like to  
11 make a statement. Jim Walters Number 5 and 2368 and  
12 District 11 all took a pretty good beating in the last year  
13 and a half, since September 23rd.

14 I've got 28 years in the mines, over 20 of it is  
15 safety. I've been in numerous coal mines and I'll have to  
16 say that Jim Walters 5 doesn't have the only problems in  
17 this nation. I've been in mines in Illinois, West Virginia,  
18 Kentucky, Alabama and they're pretty well the same. I was  
19 in Alabama for 10 months with those people. 2368, Jim  
20 Walters, those guys were -- I believe they worked together  
21 to try to get their problems solved. And what we're trying  
22 to do now, we're trying to solve the problems of the nation.

23 I read somewhere we've got 40,000 coal miners. I  
24 don't know if that's right or not. But we in safety have a  
25 responsibility to do what we're doing now and to get these

1 laws for the protection of those miners. Union, non-union,  
2 management. So I'm glad for this chance to speak.

3 1501(a) talks about the responsible person. And  
4 he should have knowledge of the various areas of the mine  
5 and the systems of the mine and how they work. One of my  
6 questions and I haven't read this anywhere but you might be  
7 able to answer it for me, where is the accountability here?  
8 Is there any record keeping as to how knowledgeable this  
9 responsible person is? Or is there any record keeping of  
10 how he would -- how the miners were notified that he is the  
11 responsible person?

12 I think down at Jim Walters 5 between 2368 and  
13 management, I think they post -- they post a responsible  
14 person on the wall. I don't know if it's an underground guy  
15 or a surface person or what it is. But I don't see anything  
16 in this rule that will show me how the person is notified.  
17 And if it's in there, I apologize for not seeing it.

18 We were talking and several people talked about  
19 the communications systems. And Mr. Sexauer asked Rick  
20 Parker one question about -- I think one of the commenters  
21 said something about you had repairmen out in the mine or  
22 you had people delivering parts and everything and it was  
23 kind of impossible. But when I started in the mine I work  
24 at now, Amley Steel Coal Company owns that mine, and they  
25 had a Motorola system that anyone that was out by -- all

1 sections had a radio, anyone that was out by carried a  
2 radio. We knew where the people were the complete eight  
3 hours in that coal mine. I know there's better systems now,  
4 but if you have a system like we had or you have these newer  
5 systems, you know where anyone is at any time in that coal  
6 mine.

7           You might have a belt boss that knows where his  
8 crew is within two or three hundred feet or a thousand feet  
9 or something. But that's not an impossible thing. And it's  
10 really not cost prohibitive to do that. It helps in your  
11 production and everything else.

12           I would like to see, and I think it mentions on  
13 page -- it's a page in this and I didn't write that down,  
14 but it says that part of this is to help with the  
15 communications in major roof falls and inundations and gas  
16 inundations and things like that. I'd like to see something  
17 in the rule such as a fan stoppage plan that we have now.  
18 If a certain amount of time -- if you lose communications,  
19 if you can't talk to the long wall or the face, especially,  
20 which as we know is probably the most dangerous areas in the  
21 coal mine, shut the belts off. We have it for a fan  
22 stoppage. You have to evacuate the mine after a certain  
23 amount of time.

24           So if you don't have communication, if you've got  
25 two or three lines of communication and all of them go down,

1 have the person on top or whoever it is, whomever it is,  
2 shut the belts off. I'll guarantee that will get people  
3 working on the communications systems. If you don't have  
4 coal coming out of that coal mine, but as long as they can  
5 go ahead and hold up work on that communication system and  
6 still run coal, they're going to work on it but they're not  
7 going to get it fixed in near as much -- in as short a time  
8 as they would when that coal stops coming.

9 I'll finish up here by saying that the responsible  
10 person in Illinois would be generally the mine manager, if  
11 it's an underground person, would be the mine manager. A  
12 person with a face paper, a person with examiner papers.  
13 Those are all state certifications.

14 The federal government doesn't have any  
15 certification that I know of except for electrical papers.  
16 All the federal -- MSHA relies on are state certification.  
17 Again, correct me if I'm wrong, but I don't believe -- I  
18 believe a certified person under your rules here, there's no  
19 test for it, there's no accountability for it. There's  
20 nothing except you're relying on the state certification.  
21 Thank you.

22 MR. NICHOLS: Thank you.

23 MR. SEXAUER: I have one quick question. You  
24 mentioned posting of the responsible person. Do you find  
25 that's adequate? Does that work?

1           MR. SWEETEN: I'm not down there. That's at --  
2 Chuck or Rick would have to tell you that. I don't know. I  
3 just mentioned that's at Number 5, I believe. I don't know  
4 -- our mine's been shut down since July the 8th and we've  
5 been laid off. I can't really -- right now at our mine they  
6 just say Ed Sexauer is the responsible person today, go to  
7 work. That's how they do it.

8           What I'm saying is, under the rule I think there  
9 should be some way to post that. And you'll have to ask  
10 those guys.

11          MR. SEXAUER: Does it work?

12          MR. BARNES: So far it works I guess. Our CO  
13 operator is our responsible person, generally. Whoever that  
14 may be that day. They rotate shifts. Two work seven days  
15 and they're off and the other two come on and work seven  
16 days.

17          MR. SEXAUER: Okay, thank you, sir.

18          MR. NICHOLS: Tom?

19          MR. WILSON: First off I'd like to point out many  
20 of the topics that's been discussed today, this is not the  
21 first time miners have come before the agency and discussed  
22 these very important issues.

23                I've been to public hearings before and discussed  
24 the need for communication improvements. I've been at  
25 public hearings and we've talked about the responsible

1 person on the surface and how coal companies across this  
2 land was utilizing security guards to fulfill this very  
3 important function.

4           Those previous comments went unnoted. Sitting  
5 here today, it's hard to make proper comments on the  
6 emergency standard and proposed rule when, as it was stated  
7 in the opening of this public hearing, that MSHA's not  
8 prepared to answer specific questions on all the areas of  
9 this proposed rule.

10           It's been 16 months since Jim Walters Number 5  
11 exploded and claimed 13 lives. Willow Creek was in July of  
12 2000, another failed evacuation.

13           And it's less than a month when the final comments  
14 are due on this proposed rule. The agency can't answer  
15 questions now, then when? How can persons properly prepared  
16 to come and comment on a proposed rule without those --

17           MR. NICHOLS: Tom, let me address this. Part of  
18 this is the rule making process. MSHA gave this rule its  
19 best on December the 12th of 2002. Coal Mine Safety and  
20 Health has received a number of questions from the community  
21 that we have tried to respond to.

22           The purpose of these hearings is to try to get all  
23 the issues on the table and deal with them in the rule  
24 making process. We felt the initial emergency was to get  
25 these people designated and with as much information as we

1 could think through and get this in process, knowing that we  
2 would have to come back and polish and maybe in some cases  
3 change or add to the rule.

4           We feel like this is a very strong rule. One of  
5 the strongest that the agency has ever produced. And really  
6 are not too sensitive to not having every answer that you  
7 may -- to a question you may raise today. We'll be glad to  
8 talk about it, but a lot of this, as you can hear today with  
9 all these comments, a lot of this is going to take a lot  
10 more consideration and debate and that's what we're going to  
11 do.

12           So we have put every bit of our best thinking into  
13 the product that we have so far today. Go ahead.

14           MR. WILSON: I'm going to go a little bit out of  
15 order on -- I heard the discussion about tracking of  
16 employees. One of the previous speakers thought that was  
17 possible. And it's essential. If you don't know where your  
18 employees are at and if you don't have communications and  
19 the capability of informing them of the need to evacuate,  
20 then we will have the exact same thing we had on September  
21 23rd. The second explosion had occurred at Jim Walters  
22 Number 5 mine, groups of employees continued to work.

23           After the atmosphere filled with dust and they  
24 heard the clingling of the man-doors, they took it upon  
25 themselves to call the CO room and ask what was going on.

1           In one of those examples, one group of employees  
2 calling in, was asked who they were, what foreman's with  
3 you. None of this knowledge was outside. They became aware  
4 because they called in.

5           The tracking of employees is something that, as we  
6 re-entered the mine at Jim Walters Number 5 and we utilized  
7 rank and file coal miners to help do the rehabilitation,  
8 tracking of employees went on every day. In rehabilitating  
9 that mine there was crews widely dispersed throughout the  
10 area. And if the need -- I mean if the wish is to maintain  
11 knowledge of where your employees are at, it can be done.

12           If we can't do it and if we can't rapidly,  
13 efficiently and safely evacuate miners in a time of  
14 emergency, then miners need not be underground. We cannot  
15 keep accepting the same failed systems.

16           Part 48 and the training, one thing on the --  
17 preparing for a mine emergency or any emergency, I don't  
18 think the frequency can be too often. I've spoken to a  
19 number of miners and both frequency and quality is spoken to  
20 as needing to be improved.

21           The quality in terms of being drills or  
22 simulations. Simply classroom lectures, discussions, do not  
23 prepare a person for what they face during emergency  
24 evacuations.

25           It was mentioned earlier and I concurred, the

1 current regulations deal with every 90 days. There's one  
2 drill every 90 days. That 90th day could be on a production  
3 shift. Drills need to be both on partial and fully staffed  
4 shifts.

5 In response to the emergency standard, every mine  
6 has by now submitted a new firefighting and evacuation plan.  
7 Many of those plans have already been approved by MSHA.

8 As you read through, and as I've had the  
9 opportunity to do in recent weeks, it talks about fire  
10 groups and the assignment of who's to do what. And as  
11 before, the outline still assumes a fully staffed section of  
12 men. It gives opinion on X number of people to respond in a  
13 given manner to a fire. But on partial days, you don't have  
14 those people.

15 Again -- and, Marvin, it's not taking away from  
16 the thought that's gone into this, it's just much was  
17 learned and realized at Jim Walters Number 5. And one of  
18 the things that was early evident was September 23rd was not  
19 a production day. It was not a fully staffed day. It was  
20 an idle maintenance day. Thirty-two people underground  
21 working in areas of the mine that they're not -- in many  
22 cases, were not accustomed to. Instead of a fully staffed  
23 section, number 4 section actually had three persons on the  
24 section, one at the end of the track.

25 Another issue under training is it does

1 specifically discuss evacuation drills. And again, we  
2 concur with that. However, the drills for those responding  
3 is not discussed. The drills and simulations for the  
4 responsible person is not discussed.

5 Twelve of the 13 that died on September the 23rd  
6 were not evacuating, they was responding. And of equal  
7 importance is how the regulation talks about fully trained  
8 and equipped. Those persons remaining underground being  
9 fully trained and equipped.

10 As I started out, one of the questions that I have  
11 not been able to get an answer to is what is a fully trained  
12 and equipped person that management can utilize to respond  
13 in an emergency?

14 What prepares that person following an explosion?  
15 A battery is smashed under the rock fall. What prepares  
16 that person to be able to go back into that mine for rescue  
17 purposes?

18 I think as this moves forward, as MSHA approves  
19 firefighting and evacuation plans across this country, as  
20 the final rule is developed, one area that MSHA should  
21 seriously consider is what type of equipment, what type of  
22 training, what type of knowledge. Many of the miners that  
23 spoke before me today spoke about AMS. The need for  
24 atmospheric monitoring system. Something that's  
25 transmitting remotely. Intelligence about the mine

1 atmosphere that you're walking back into.

2           The knowledge of whether there is explosive levels  
3 of methane, whether there is ignition sources. It's not an  
4 easy solution. I'll submit to you that's a much harder  
5 solution than the tracking of employees. Design a system  
6 that has some survivability after a first event that will  
7 continue to transmit data and knowledge to those that's  
8 being asked to go back in.

9           It was mentioned earlier about the responsible  
10 person that's currently contained in 75.1600. And in the  
11 plans immediately following September 23rd at that group  
12 number 5, as I'm sure you know, there was both a responsible  
13 person on the surface and a responsible person underground.  
14 And the plan defines the interaction between those two  
15 people. The communication that must take place. What would  
16 happen if one was absent.

17           One of the areas of concern is that the proposed  
18 rule doesn't take into consideration the interaction between  
19 the responsible person required by 75.1600 and the  
20 responsible person 75.1501. In any of the plans that's been  
21 submitted that I've reviewed, and this gets into should the  
22 responsible person be by title or by name, the plans said  
23 the mine foreman was the responsible person. The mine  
24 foreman would be underground. This approach is, in my view,  
25 nearsighted, in that, I think it fails to consider the

1 predictable response characteristic of that person during an  
2 emergency.

3           It's my belief that person is going to want to  
4 immediately respond. And I ask you, as you approve these  
5 plans and as you develop the final rule, I think the  
6 response characteristic that's fairly predictable should be  
7 considered. Because the responsible person has to show the  
8 strength and focus on the efficient and rapid, safe  
9 evacuation of those mines. It's his first priority.

10           On the tracking of employees, and as I already  
11 stated, it has been accomplished, it is essential to ever be  
12 able to evacuate. But it's also essential that this person  
13 be required to document these moves. I don't care how great  
14 a person this person is, he's receiving calls throughout the  
15 shift of the miners' movement. Then an emergency strikes.  
16 And with all else that's going on during an emergency, he's  
17 going to be able to recall all that off the top of his head?

18           Take that one step further. This is an actual  
19 submittal to the emergency standard. In case the  
20 responsible person is in a remote part of the mine and  
21 unavailable, I want to insert "we" for the name of the mine,  
22 has designated two secondary responsible persons. The first  
23 secondary responsible person will be the assistant shift  
24 foreman. And if he or she is unavailable, the second  
25 secondary responsible person will be the mine communication

1 clerk.

2           How much time passes before the secondary or third  
3 responsible person realizes that they are now the  
4 responsible person? They're the one that's got the ball and  
5 they have got to move with the evacuation.

6           The information that the responsible person has  
7 gathered throughout the shift as far as, and I want to use  
8 the language that's in the rule, expected movements of  
9 miners. What transfers that to the second responsible  
10 person or the third responsible person? This was actually  
11 submitted in recent weeks in response to the emergency rule.

12           My fear is that the problem's not going to be  
13 solved. That the need is not going to be heard and that the  
14 loopholes or the deficiencies will continue to exist.

15           I too, like previous speakers, have great concern  
16 about the responsible person being underground. One of them  
17 I've already talked about, and that's the response  
18 characteristic for that person to respond to the scene of  
19 the emergency instead of staying put and focusing on  
20 evacuation.

21           Secondly, the concern that that person will become  
22 part of the emergency.

23           With the responsible person underground, and as  
24 already alluded to in many submittals to MSHA, in a remote  
25 part of the mine and unavailable, the person -- the

1 responsible person being available to initiate and conduct  
2 an immediate mine evacuation, precious time goes by,  
3 precious time that miners may not have.

4           For those responding, I've already -- what is  
5 properly trained and equipped? And I've seen it answered in  
6 submittals by titles. The mine manager is properly trained  
7 and equipped to respond. The mine foreman. Superintendent.  
8 Section Foreman. Mine rescue team. Miners with gas  
9 detectors.

10           We are before you today because at least 14 lives  
11 from failed evacuation and emergency response have already  
12 passed. We wish to see no more. And that goes for all  
13 titles, in all occupations.

14           Those responding, and truly this is a tough one  
15 and it deserves a lot of consideration, is what type of  
16 communications is he getting from the accident scene? Is  
17 continuous communication required from the accident scene?

18           If there is no communication from the accident  
19 scene, what other factors is he relying on to make the  
20 determination for himself and others to go forward?  
21 Information from the fans? Information about what's de-  
22 energized and what's not?

23           I heard electricians earlier speak about even  
24 though they're electricians, the way things are wired, how  
25 hard it is to insure that when you hit the switch you have

1 actually de-energized the ignition sources.

2 I believe there's some emergency standards, as we  
3 did advise, to help protect those responding. We  
4 incorporated the additional atmospheric monitoring systems.  
5 Put a methane monitor in the intake conveyor belt that  
6 transmits data to the surface. Put a methane monitor on the  
7 section fire center. It doesn't transmit but de-energizes  
8 the ignition source. Built cages around charging stations  
9 to keep them from becoming the ignition source during a roof  
10 fall. Better battery design. It's not something that we  
11 don't know if it can be done. We've met with the  
12 manufacturers. They insure us that there's simple design  
13 features that they can incorporate that would make that  
14 battery safer, less likely to become an ignition source from  
15 roof falls.

16 Under the emergency standards it states the mine  
17 operator shall instruct miners of any changes in the  
18 identity of the responsible person before the start of their  
19 work shifts. And I've heard a number of questions. Is  
20 posting simply -- is that adequate? Should they verbally be  
21 told? And I'd like to address, again, an opinion, on that.

22 I think it's essential, by name, by face  
23 recognition, that I as a miner know who the responsible  
24 person is. As I pointed out in the submitted plan, simply  
25 to have a whole list of a responsible person, a secondary

1 responsible person and a third responsible person only leads  
2 to confusion.

3           If there's a change, unfortunately posting does  
4 not -- one would say, well, a miner can look at the board  
5 daily. The truth is, as miners come and go from the work  
6 place, they do not look at the board daily. And it's often  
7 not the attention getter that we often wish it would be.

8           As important as a person as this is, thought  
9 should go in as to who it is and also miners should be  
10 notified verbally when it's changed.

11           Under 75.1502(a) reads, each operator of an  
12 underground coal mine shall adopt a program for the  
13 instruction of all miners in the proper evacuation  
14 procedures. And we commend you for that language.

15           However, and I'll be repetitious, 75.1502 does not  
16 require the same for those responding. And for those that's  
17 being chosen. They just have the responsible person.

18           The subject of communications and there's several  
19 facets to this topic. I believe there is a need for better  
20 communications throughout the coal mine, for the daily  
21 tracking of coal miners and for the ability to completely  
22 inform miners of the need to evacuate. There's also a need  
23 for MSHA to develop and institute minimum communication  
24 requirements for those responding.

25           And I ask each of you, you've got a crew of

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1 miners, assumingly properly trained and equipped, responding  
2 to an emergency situation. What is an acceptable time for  
3 you as the responsible person or you in the control room or  
4 command center, not hearing from those miners? How much  
5 time passes before you're making a decision that you need to  
6 send in another crew to respond to find the first crew?

7           Another problem that became apparent on  
8 communications on the evening of September 23rd is that the  
9 world's changed and we are now in a world of cell phones.  
10 As ambulances and fire trucks, emergency vehicles, converged  
11 on Number 5 mine, every person driving up and down the road  
12 that had a cell phone had the ability  
13 -- didn't have the ability, could call the mine site. On  
14 that particular evening, well, on all evenings, any call  
15 that came into that mine site rolled over into the control  
16 room.

17           The person sitting in the control room testified  
18 that he had no way to distinguish between a call coming from  
19 off the property and a call coming from the miners  
20 underground that he was needing to indicate.

21           This person was not in control of his own time  
22 because of the system that was in place that allowed  
23 communications from curious bypassers to come in during a  
24 crucial moment when he needed to be talking to miners.

25           So just simply having a responsible person on the

1 surface, we must also consider the system or the equipment  
2 that we provide for him to accomplish his task.

3 Back to the comment that the responsible person  
4 should be by name, also should be by qualification. Simply  
5 because I have a job title does not prepare me to respond to  
6 these type of situations.

7 One crucial item that I believe is missing from  
8 the firefighting and evacuation plan is there is no  
9 demonstration by the operator on their ability to rapidly,  
10 efficiently and safely evacuate. Again, this goes back to  
11 tracking of employees, having knowledge, having the ability  
12 to communicate with those employees the need to evacuate.

13 Somebody touched on it earlier and in addition to  
14 the telephone communication system, Number 5 installed a  
15 leaky feeder system as a second communications system for  
16 employees. It's also recognized that turning off the belt  
17 and activating the CO monitor alarms would prompt employees  
18 to go to the phone and call.

19 Mines currently exist where when the examiner  
20 enters the bleeder, some six hours or longer before he exits  
21 the bleeder or comes back out to communication. Dispatching  
22 a miner where an emergency has occurred, that miner is  
23 somewhere in the bleeder and my only option is to send  
24 another miner towards the emergency to retrieve the one  
25 that's in the bleeder.

1           As a responsible person, I need to know when he  
2 entered the bleeder, at what time. Is it quicker to send  
3 somebody tracing his steps or to meet him where he exits the  
4 bleeder, where he comes out? Those type of -- that type of  
5 knowledge could make a difference in life and death.

6           With that, I'll answer any questions.

7           MR. NICHOLS: Okay, let me comment a little bit on  
8 the thought process that went into the emergency temporary  
9 standard. There were two things driving the agency when we  
10 decided to issue this standard.

11           One was the agency wanted somebody to immediately  
12 take control at the mine site to manage an emergency. We  
13 wanted that done right now. That's why we issued the  
14 emergency temporary standard.

15           The second thing was that the existing evacuation  
16 plan only talked about fires. And we wanted those rewritten  
17 to include explosions, gas and water inundation.

18           And the third thing was that the miners be trained  
19 in what the escape, evacuation plans called for.

20           As far as a person being properly trained and  
21 equipped, I don't know if we got much past beyond thinking  
22 about people ought to have gas protection equipment. We had  
23 heard that people were going into areas without gas  
24 protection equipment.

25           So that's what we had when we issued the emergency

1 temporary standard. If we'd had answers to all the other  
2 issues and nuances, we wouldn't need to have these public  
3 hearings. I mean we could have written it into the EPS,  
4 finalized it and let it stand the legal test.

5 But we don't have that. I mean what we're doing  
6 here today and what we're going to be doing at the next  
7 three public hearings, is going to require a lot of  
8 discussion and debate on how to come up with a good final  
9 rule. A good practical rule that gets at the problem.

10 I think the agency can develop a rule that fits  
11 the major boundaries that -- in the end, some of the minor  
12 differences are going to have to be dealt with on a local  
13 level through the plans.

14 But we're determined to produce the best rule that  
15 we can possibly produce. And we're required to do that by  
16 the end of the first week in September.

17 Now, the way the process works is, we'll take all  
18 the comments and we'll have our technical staff and our  
19 policy makers sit down and review all the records and then  
20 in the end make a cut on whether recommendations are  
21 accepted or rejected or accepted in part, rejected in part.

22 But every comment that's made, the agency will respond to  
23 in the preamble to the final rule. That's the  
24 -- the consideration it was given, why it was accepted, why  
25 it was not accepted.

1           Now, you know, we've had a lot of different  
2 testimony on communication systems and training and the  
3 responsible person. Every single comment, we would group  
4 those comments and respond to them in total rather than try  
5 and do it one on one.

6           But we -- well, let me say first, that's the last  
7 person we had signed up to speak. Tom, we may have some  
8 questions for you.

9           MR. CROCCO: Before you go, Tom, you've heard a  
10 number of the people talk about the interruption in the  
11 service shaft and, you know, allowing further production  
12 people to go in the mine using the alternate. Do you have  
13 any thoughts or recommendations on that subject?

14          MR. WILSON: Bill, I don't -- I've seen -- I've  
15 worked in those mines when that was not the case. If the  
16 main escape way was down, you was allowed to enter the mine  
17 on the auxiliary. As time evolved, the two-man escape  
18 trucks were developed and opinions changed, too, that would  
19 allow a full shift of men, fully staffed shift of men to  
20 enter, coal was being produced, with limited escape  
21 capabilities.

22          When you do that, when you send a full crew of  
23 men, hundreds of men, underground, full coal production,  
24 you're gambling on the ability to -- you do not have the  
25 ability to rapidly evacuate, pure and simple.

1           The smaller secondary escape way puts severe  
2 limitations, both loading, unloading and the time for a  
3 round trip. The two man capsule adds even more time.

4           So I guess -- I believe in those circumstances the  
5 ability to rapidly, efficiently and safely evacuate does not  
6 exist. I think it goes back to we believe that operators  
7 ought to be required to demonstrate that.

8           And that would be one scenario that could be --  
9 where such a demonstration would be useful.

10           MR. NICHOLS: Anything else, Bill?

11           MR. CROCCO: On the communications for the  
12 responders, are you trying to say that the responders  
13 -- could they use like stationary mine phones? They would  
14 have to have a mobile communications system to carry with  
15 them, is that what you were trying to say?

16           MR. WILSON: What I advocated was that we should  
17 all know the expectation of how -- what is acceptable. How  
18 long a responder could be in by. You say stationary. Now I  
19 believe in utilization of the stationary. I would hope that  
20 ability or availability of stationary would be increased and  
21 also the upkeep of the stationary would be improved.

22           One thing we found on the stationary communication  
23 at the mine on September 23rd, following September 23rd, was  
24 that the battery in each one of those phones was actually  
25 held against the terminal in back by a bracket. A bracket

1 that you had to take a -- the bracket was held in place by  
2 some very small phillip's head screws.

3           Towards time that the battery needed changed, the  
4 first thing that got left out of all these phones was the  
5 bracket. We inspected the phones at Number 5 mine as well  
6 as other mines and found the same condition. It was an  
7 unfriendly design. As soon as I drop the phillip's head  
8 screw in the coal dust or dirty atmosphere, the bracket was  
9 left off. Or because it added time in changing batteries,  
10 the bracket was left out.

11           It was our belief that after the forces came  
12 through from the first explosion, moving those phones  
13 around, the battery became loose from the terminals in back  
14 and, quite frankly, every phone in by 459, following the  
15 second explosion, was inoperative.

16           There was times -- long periods of time during  
17 rescue efforts that the command center did not have  
18 communications with those rescuers. And whether it's  
19 -- so I indicate both better maintenance of the phones that  
20 we currently have in mines, expansion of communication  
21 system in those mines where they're relying on only one  
22 phone system, and minimum requirements during a response  
23 situation. So the expectation for the -- yeah, the  
24 expectation is understood in advance as an incentive for why  
25 you maintain and take care of the communications system.

1           The responsible person, talk about what he has to  
2 -- it lays out that he has knowledge of the communications  
3 system, he has knowledge of the firefighting, evacuation  
4 plan, AMS system if it's in use, the ventilation system.  
5 The person should also have knowledge of what's an  
6 acceptable time frame for that response team to advance past  
7 that last known communication.

8           On September 23rd, following the first explosion,  
9 nine of the men -- nine of the victims were found a half  
10 mile in by what was known to be the last working  
11 communication.

12           I think it's common knowledge, of those nine men,  
13 no methane detectors were found. Did I answer --

14           MR. CROCCO: You're saying the time period that  
15 exists there, would that be some sort of a response time to  
16 hear back that would be in the plan or are you saying it  
17 should be in the regulation?

18           MR. WILSON: I think it should be standard for the  
19 industry. How the agency achieves that, I don't know what  
20 would be the best mechanics. Whether it be in a plan or  
21 through an emergency standard. But I do think that by not  
22 having that understood by the responsible person and those  
23 responding, is a shortcoming that could end in another  
24 disastrous situation.

25           MR. NICHOLS: What do you think the time should

1 be?

2 MR. WILSON: I don't know if I've given thought to  
3 what the exact time is. I will say this to you, I was in  
4 the command center on September the 23rd and I participated  
5 in a time frame in hindsight. It was viewed by others as  
6 being absolutely unacceptable and as gambling with those  
7 rescuers' lives.

8 Communication is important. Continuous  
9 communications is important from the accident scene. And  
10 communications from those responding, with both the  
11 responsible person and the -- and/or the command center, is  
12 essential because conditions change continuously during an  
13 emergency.

14 My ability to communicate those changes to those  
15 responding, their lives depend on it. Their ability to  
16 communicate changing conditions back out to the responsible  
17 person. Again, their lives also depend on that.

18 So I think the true answer, Marvin, is continuous  
19 communications.

20 MR. NICHOLS: Okay, we need you to continue to be  
21 as specific in your comments, again, because we're charged  
22 with developing a rule that will govern the industry in this  
23 area and we need good clear comments on what your best  
24 thinking is and then that's what we'll use for decision  
25 making, from the whole mining community.

1           Anybody have questions or comments? Bill, do you  
2 have any more?

3           MR. CROCCO: No.

4           MR. NICHOLS: Okay, thanks, Tom. Tom was the last  
5 person that signed up to present comments. Is there anyone  
6 else that would like to come up and speak?

7           Okay, if not, we appreciate the attendance. We  
8 appreciate your participation, your comments and we'll keep  
9 working through the process and -- yes.

10          MR. BLANKENSHIP: Could I speak again, please?

11          MR. NICHOLS: Yes, come on up. Give us your name  
12 again.

13          MR. BLANKENSHIP: James Blankenship. I work at  
14 Jim Walter Number 4 mine, Rookwood, Alabama.

15                I listened -- I spoke earlier. I listened to a  
16 lot of my brothers talk about their concerns and some of my  
17 concerns also. And I heard a lot of questions that were  
18 asked that I can probably shed a little bit of light on  
19 being an electrician at Jim Walter Number 4 mines.

20                I work out by, that means I work out by the  
21 section where the long wall is. I deal with the AMS system,  
22 the leaky bleeder system and the pump system a lot.

23                At our mines we've got approximately 40 monitors  
24 in our mines. It would take about 40 more to really cover  
25 our mines completely at a cost of about \$1,000 a monitor.

1 That's about \$40,000. Cable would run you another 50,000.

2 That's \$90,000 to save lives.

3 Put man-buses -- I spoke on transportation. You

4 put a man-bus on the end of the track and leave it there.

5 We've got empty buses we could fix up. But you can get a

6 new one for around 30 to \$40,000. We've got three sections

7 in the long wall, that's four buses. That's about \$140,000.

8 That's less than \$250,000 to do both of those. If Jim

9 Walters pays out two death benefits, that's \$260,000. It

10 seems to me like the money is well spent saving the lives

11 and putting new equipment in the mines.

12 The leaky feeder cable, it's not an ongoing

13 experience because I -- we reuse it a lot. We put it in,

14 when the long wall pulls out, we retrieve it and move it to

15 the next advancing section and put it back in. We take good

16 care of it, we have very little loss to it. So that expense

17 is not that great. Nothing he's got to keep buying over and

18 over again.

19 It's a good system. It works well at our place.

20 It's a sturdy system. And once we get it in place, like I

21 said, the maintenance on it is not too bad.

22 I'd be glad to answer any more questions. Those

23 questions I heard today and I thought I could clear them up

24 a little bit.

25 MR. CROCCO: You say you've got 40 CO sensors --

1 MR. BLANKENSHIP: Yes, sir.

2 MR. CROCCO: -- on your current system?

3 MR. BLANKENSHIP: Yes, sir.

4 MR. CROCCO: When you say 40 more, are you talking  
5 about extending those from the intake or also into the  
6 return?

7 MR. BLANKENSHIP: The intake and return both. I'm  
8 talking to our CO guy. He's actually a union brother. He  
9 puts it in and I assist him a lot. I called and talked to  
10 him and he said he thought we could do it with 40 more.

11 MR. NICHOLS: What was your total cost then?

12 MR. BLANKENSHIP: The monitors are about \$1,000  
13 apiece. And cable would run about, roughly, 50,000, give or  
14 take a little bit.

15 MR. CROCCO: Okay.

16 MR. BLANKENSHIP: The State of West Virginia law  
17 requires that a man-bus be left on the sections at all  
18 times. My brother works for U.S. Steel, Pineville, West  
19 Virginia. They hot-seat change them. I believe -- they've  
20 got two buses. One that runs the section in and out and  
21 runs errands and all that stuff. The other one stays on the  
22 end of the track. Their cost isn't that high. They mine  
23 coal, they sell it, they produce it. But they've still got  
24 a bus there to bring the miner out if he gets hurt or if  
25 they have to evacuate.

1           I hate to think the state of West Virginia cares  
2 more about their miners than our federal government cares  
3 about the miners across the country. If they can do it and  
4 make it work, we can, too, everywhere else. I appreciate  
5 it, thank you.

6           MR. NICHOLS: Anybody else?

7           Okay, that concludes our meeting, thanks.

8           (Whereupon, at 12:30 o'clock p.m., the meeting was  
9 concluded.)

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NATIONAL TRANSPORTATION SAFETY BOARDREPORTER'S CERTIFICATE

I, Diane Morris, reporter, hereby certify that the foregoing transcript consisting of 103 pages is a complete, true, and accurate transcript of the public meeting indicated, held on February 4, 2003 in Lexington, Kentucky.

I further certify that this proceeding was recorded by me, and that the foregoing transcript has been prepared under my direction.

Date: February 5, 2003

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Official Reporter